

CITY COUNCIL
CITY OF WICHITA
KANSAS

City Council Meeting
09:30 a.m. July 22, 2008

City Council Chambers
455 North Main

OPENING OF REGULAR MEETING

- Call to Order
- Approve the minutes of the regular meeting on July 15, 2008

COUNCIL BUSINESS

NEW COUNCIL BUSINESS

1. 2009 Annual Operating Budget and 2008 Budget Revisions.

RECOMMENDED ACTION: Set the public hearing on the proposed 2009 Budget (including the Tax Increment Financing Districts and the Self-Supporting Municipal Improvement District downtown) and the revised 2008 Budget for August 12, 2008; authorize publication of the formal public hearing notice; approve first reading of the general budget, TIF district, and SSMID ordinances; and set a maximum amount of taxes levied (\$100,940,350) based on an anticipated mill levy of 31.979 mills (no change from the current mill levy) and an estimated assessed valuation of \$3,153 billion.

2. Water Monthly Base Charge Increase - Ordinance.

RECOMMENDED ACTION: Adopt the Ordinance effective August 1, 2008, to increase water monthly base charges and place the Ordinance on first reading.

3. Public Exigency-Chapin Landfill Methane Gas. (District III)

RECOMMENDED ACTION: Declare the public exigency and authorize payment of the resulting bills in an amount not to exceed \$500,000 from the Landfill Post Closure Budget.

COUNCIL BUSINESS SUBMITTED BY CITY AUTHORITIES

PLANNING AGENDA

NOTICE: Public hearing on planning items is conducted by the MAPC under provisions of State law. Adopted policy is that additional hearing on zoning applications will not be conducted by the City Council unless a statement alleging (1) unfair hearing before the MAPC, or (2) alleging new facts or evidence has been filed with the City Clerk by 5p.m. on the Wednesday preceding this meeting. The Council will determine from the written statement whether to return the matter to the MAPC for rehearing.

* Consent Items

4. *CUP2008-00015 AND ZON2008-00021 – Creation of DP-313 Parker Addition Community Unit Plan and zone change from SF-5 Single-family Residential (“SF-5”) to LC Limited Commercial (“LC”), generally located on the northwest and southeast corners of Central Avenue and 127th Street East. (District II)

RECOMMENDED ACTION: 1) Adopt the findings of the MAPC and approve the Community Unit Plan, including the additional landscape requirement and alternate setback, and the zone change to LC Limited Commercial subject to platting within one year; withhold the publication of the ordinance until the plat is recorded; OR 2) Return the application to the MAPC for reconsideration.

5. *SUB 2007-92-Plat of Maize School South Campus Addition located on the south side of 37th Street North between Maize Road and Tyler Road. (District V)

RECOMMENDED ACTION: Approve the documents and plat and authorize the necessary signatures.

6. *VAC2008-00016- Request to vacate a portion of a platted easement, generally located west of K-96 Highway, midway between 13th and 21st Streets North, northeast of the Crestwood and Chapel Hill Streets intersection. (District II)

RECOMMENDED ACTION: Approve the Vacation Order and authorize the necessary signatures.

7. *VAC2008-00017- Request to vacate a portion of a setback dedicated by separate instrument; generally located on the southeast corner of 47th Street South and Broadway Avenue. (District III)

RECOMMENDED ACTION: Approve the Vacation Order and authorize the necessary signatures.

HOUSING AGENDA

NOTICE: The City Council is meeting as the governing body of the Housing Authority for consideration and action on the items on this Agenda, pursuant to State law, HUD, and City ordinance. The meeting of the Authority is deemed called to order at the start of this Agenda and adjourned at the conclusion.

* Consent Items

Allan Murdock, Housing Member is also seated with the City Council.

None

AIRPORT AGENDA

NOTICE: The City Council is meeting as the governing body of the Airport for consideration and action on items on this Agenda, pursuant to State law and City ordinance. The meeting of the Authority is deemed called to order at the start of this Agenda and adjourned at the conclusion.

*Consent items

None

COUNCIL AGENDA

COUNCIL MEMBER AGENDA

None

8. **COUNCIL MEMBER APPOINTMENTS**

RECOMMENDED ACTION: Approve the Appointments.

CONSENT AGENDA

9. **Report of Board of Bids and Contracts dated July 21, 2008.**

RECOMMENDED ACTION: Receive and file report; approve Contracts; authorize necessary signatures.

10. **Applications for Licenses:**

None

11. Applications for Licenses to Retail Cereal Malt Beverages:

| <u>Renewal</u> | <u>2008</u> | <u>(Consumption off Premises)</u> |
|--------------------|---------------------|-----------------------------------|
| Jeff Parler | Kwik Shop 714 | 4811 South Seneca |
| Jeff Parler | Kwik Shop 716 | 2424 West 37th Street North |
| Jeff Parler | Kwik Shop 722 | 3959 South Hydraulic |
| Jeff Parler | Kwik Shop 727 | 7107 West 37th Street North |
| Jeff Parler | Kwik Shop 731 | 710 West 29th Street North |
| Jeff Parler | Kwik Shop 748 | 2809 East Douglas |
| Jeff Parler | Kwik Shop 772 | 2750 South Oliver |
| Kulwinder Jaswal | Petro America | 2700 North Amidon Street |
| | | |
| <u>Renewal</u> | <u>2008</u> | <u>(Consumption on Premises)</u> |
| Gerardo Guzman | La Posada Inc.* | 552 South Oliver |
| Hanh Bui | Saigon Restaurant* | 1105 North Broadway |
| | | |
| <u>New</u> | <u>2008</u> | <u>(Consumption on Premises)</u> |
| Mohammad Z Hossain | D&D Enterprise Inc. | 5562 South Seneca |
| Philomena Sadig | 4SPS LLC | 802 North West Street |

*General/Restaurant - 50% or more of gross receipts derived from sale of food.

RECOMMENDED ACTION: Approve licenses subject to Staff review and approval.

12. Preliminary Estimates:

RECOMMENDED ACTION: Receive and file.

13. Petitions for Public Improvements:

- a. Construct a Water Distribution System for Clifton Cove Addition, Clifton Heights Commercial Additions and two unplatted tracts, north and south of 63rd Street South, along both sides of Clifton (District III)
- b. Construct Paving and Drainage Improvements for Monarch Landing Additions, north of 21st Street, west of 159th Street East. (District II)
- c. Street Paving in Woodland North Addition, east of Hood, south of 29th Street North. (District VI)

RECOMMENDED ACTION: Approve Petitions; adopt resolutions.

14. Deeds and Easements:

None

15. Statement of Costs:

None

16. Consideration of Street Closures/Uses.

None

17. Agreements/Contracts:

None

18. Design Services Agreement:

None

19. Change Orders:

- a. Change Order and Petition for Sanitary Sewer in Edge Water Addition and unplatted tract, south of 45th Street North, west of Hoover. (District V)

RECOMMENDED ACTION: Approve the Change Orders and authorize the necessary signatures.

20. Property Acquisition:

None

21. Minutes of Advisory Boards/Commissions

Arts Council Minutes, June 12, 2008

RECOMMENDED ACTION: Receive and file.

22. Repair or Removal of Dangerous and Unsafe Structures

None

23. Designation of Redeveloper for Portions of Lot 8, Bridgeport Industrial Park II and Lots 3 and 4, North Wichita Gardens Addition. (District VI)

RECOMMENDED ACTION: Approve the Real Estate Purchase Contract and authorize all necessary signatures.

24. Fidelity Bank Resolutions.

RECOMMENDED ACTION: Adopt the resolutions updating the list of individuals authorized to execute transactions with Fidelity Bank and authorize the necessary signatures.

25. HOME CHDO Housing Development Funding Agreements. (Districts I, III, IV, V, and VI)

RECOMMENDED ACTION: Approve the funding agreements.

26. Acquisition of Vacant Parcel Adjacent to 9818 East Kellogg for the Kellogg/Webb Road Interchange Project. (District II)

RECOMMENDED ACTION: Accept the donation and authorize all necessary signatures.

27. Settlement of Lawsuit.

RECOMMENDED ACTION: Authorize payment of \$12,000.00 as a full settlement of all possible claims arising out of the plaintiff's employment.

28. Water Treatment Plant Taste and Odor Control Improvements.

RECOMMENDED ACTION: Approve the Agreement and authorize the necessary signatures.

29. Abatement of Dangerous and Unsafe Structures. (Districts I, III, IV and VI)

RECOMMENDED ACTION: Approve the proposed assessments and place the ordinances on first reading.

30. Geophysical Testing of a Sanitary Sewer Trench - Agreement. (I, II, III and VI)

RECOMMENDED ACTION: Approve the Agreement with Terracon Consultant and authorize the necessary signatures.

31. City of Wichita Point-to-Point Data Network Services.

RECOMMENDED ACTION: Approve the contract for design, installation and implementation of the Point-to-Point Data Network Services with Electronic Technology, Inc.

32. City of Wichita Intelligent Transportation System Project.

RECOMMENDED ACTION: Approve the contract to provide project management services for the design, installation and implementation of Transit Services Intelligent Transportation System (ITS) project with TranSystems.

33. Second Reading Ordinances: (First Read July 15, 2008)

a. Maize Road Improvement, between Pawnee and Kellogg. (District IV)

An Ordinance amending Ordinance No. 47-889 of the City of Wichita, Kansas declaring Maize Road, between Pawnee and Kellogg (472-84697) to be a main trafficway within the City of Wichita, Kansas; declaring the necessity of and authorizing certain improvements to said main trafficway; and setting forth the nature of said improvements, the estimated costs thereof, and the manner of payment of same.

b. Meridian Street Improvement, between 47th Street South and 31st Street South. (District IV)

An Ordinance amending Ordinance No. 46-849 of the City of Wichita, Kansas declaring Meridian, between 47th street south and 31 street south (472-84302) to be a main trafficway within the city of Wichita, Kansas; declaring the necessity of and authorizing certain improvements to said main trafficway; and setting forth the nature of said improvements, the estimated costs thereof, and the manner of payment of same.

RECOMMENDED ACTION: Adopt the Ordinances.

Adjournment

Workshop to follow

(Published in The Wichita Eagle on August __, 2009)

ORDINANCE NO.

AN ORDINANCE MAKING AND FILING AN INCREMENT IN AD VALOREM TAXES FOR THE EAST BANK REDEVELOPMENT DISTRICT, CITY OF WICHITA, KANSAS, FOR THE FISCAL YEAR BEGINNING JANUARY 1, 2009, AND ENDING DECEMBER 31, 2009.

WHEREAS, the City of Wichita, Kansas, has established a Redevelopment District designated as the East Bank Redevelopment District under authority of K.S.A. 12-1770 *et seq.* of the State of Kansas; and,

WHEREAS, the City has by ordinance adopted a redevelopment plan for the East Bank Redevelopment District, the District being created in 1995; and,

WHEREAS, the City found that the conditions defined in K.S.A. 12-1770a of the State of Kansas did exist and therefore the increment in ad valorem taxes for the East Bank Redevelopment District is collected on a yearly basis as defined in K.S.A. 12-1770a(x) of the State of Kansas; and,

WHEREAS, the City has by ordinance removed property and reduced the District boundaries, the District boundaries being modified in 2002; and,

WHEREAS, the City has by ordinance expanded the District boundaries, the District boundaries being modified in 2004; and,

WHEREAS, the boundaries of the East Bank Redevelopment District are described in Exhibit "A" attached hereto;

NOW, THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS:

SECTION 1. The City of Wichita, Kansas, has adopted a budget estimating \$1,029,570 of increment funds in ad valorem taxes from the East Bank Redevelopment District (the current boundaries of the District are described in Exhibit "A" attached hereto).

SECTION 2. In accordance with Section 1 hereof, the City of Wichita, Kansas, hereby estimates the increment to be collected from ad valorem taxes produced from property located within the East Bank Redevelopment District at \$2,113,650 for the year beginning January 1, 2009, and ending December 31, 2009.

SECTION 3. The purpose of setting this increment is to pay the direct costs of infrastructure improvements within the Redevelopment District as defined in K.S.A. 12-1770a(q), such costs being integral to the increased development and property valuation within the District, incurred between January 1, 2009, and December 31, 2009, including principal and interest due on special obligation bonds or full faith and credit tax increment bonds issued to finance in whole or in part operation and

maintenance expenses and other expenses relating directly to infrastructure improvements within the Redevelopment District. The increment set herein is estimated based on assessment of the value of properties as reported by the Sedgwick County Appraiser's Office.

SECTION 4. That the Director of Finance of the City of Wichita, Kansas, is hereby directed to make proper certification of the increment estimated to be produced from ad valorem taxes that are to be levied in the East Bank Redevelopment District to the County Clerk of Sedgwick County, Kansas, in conformity with and as provided by law.

SECTION 5. This ordinance shall take effect and be in full force and effect from and after its passage and publication once in the official City paper.

PASSED by the governing body of the City of Wichita, Kansas, this 12th day of August 2008.

Carl Brewer, Mayor

ATTEST: (SEAL)

Karen Sublett, City Clerk

APPROVED AS TO FORM:

Gary E. Rebenstorf, City Attorney
Director of Law

EXHIBIT “A”

DESCRIPTION OF THE EAST BANK REDEVELOPMENT DISTRICT (TIF DISTRICT #3)

Within the City of Wichita, Sedgwick County, Kansas, beginning at the intersection of Main Street and Kellogg Avenue, thence north on Main Street to the intersection of Main Street and Douglas Avenue, thence west on Douglas Avenue to the intersection of Douglas Avenue and Waco Street, thence north on Waco to the intersection of Waco Street and Greenway Boulevard, thence north on Greenway Boulevard to Central Avenue, thence west on Central Avenue to Seneca Street, thence south on Seneca Street to the intersection of Seneca Street and McLean Boulevard, thence south on McLean Boulevard to Kellogg Avenue, thence east on Kellogg Avenue to Main Street, being the point of beginning, plus an approximately five-acre parcel located at the southwest corner of Maple Street and McLean Boulevard.



THE EAST BANK REDEVELOPMENT DISTRICT (TAX INCREMENT FINANCING DISTRICT #3)

(Published in The Wichita Eagle on August ___, 2007)

ORDINANCE NO. _____

AN ORDINANCE MAKING AND FILING AN INCREMENT IN AD VALOREM TAXES FOR THE OLD TOWN REDEVELOPMENT DISTRICT, CITY OF WICHITA, KANSAS, FOR THE FISCAL YEAR BEGINNING JANUARY 1, 2009, AND ENDING DECEMBER 31, 2009.

WHEREAS, the City of Wichita, Kansas, has established a Redevelopment District designated as the Old Town Redevelopment District under authority of K.S.A. 12-1770 *et seq.* of the State of Kansas; and,

WHEREAS, the City has by ordinance adopted a redevelopment plan for the Old Town Redevelopment District, the District being created in 1993; and,

WHEREAS, the City found that the conditions defined in K.S.A. 12-1770a of the State of Kansas did exist and therefore the increment in ad valorem taxes for the Old Town Redevelopment District is collected on a yearly basis as defined in K.S.A. 12-1770a(x) of the State of Kansas; and,

WHEREAS, the boundaries of the Old Town Redevelopment District are described in Exhibit “A” attached hereto;

NOW, THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS:

SECTION 1. The City of Wichita, Kansas, has adopted a budget estimating \$801,490 of increment funds in ad valorem taxes from the Old Town Redevelopment District (the current boundaries of the District are described in Exhibit “A” attached hereto).

SECTION 2. In accordance with Section 1 hereof, the City of Wichita, Kansas, hereby estimates the increment to be collected from ad valorem taxes produced from property located within the Old Town Redevelopment District at \$633,450 for the year beginning January 1, 2009, and ending December 31, 2009.

SECTION 3. The purpose of setting this increment is to pay the direct costs of infrastructure improvements within the Redevelopment District as defined in K.S.A. 12-1770a(q), such costs being integral to the increased development and property valuation within the District, incurred between January 1, 2009, and December 31, 2009, including principal and interest due on special obligation bonds or full faith and credit tax increment bonds issued to finance in whole or in part operation and maintenance expenses and other expenses relating directly to infrastructure improvements within the Redevelopment District. The increment set herein is estimated based on assessment of the value of properties as reported by the Sedgwick County Appraiser’s Office.

SECTION 4. That the Director of Finance of the City of Wichita, Kansas, is hereby directed to make proper certification of the increment estimated to be produced from ad valorem taxes that are to be levied in the Old Town Redevelopment District to the County Clerk of Sedgwick County, Kansas, in conformity with and as provided by law.

SECTION 5. This ordinance shall take effect and be in full force and effect from and after its passage and publication once in the official City paper.

PASSED by the governing body of the City of Wichita, Kansas, this 12th day of August, 2007.

Carl Brewer, Mayor

ATTEST: (SEAL)

Karen Sublett, City Clerk

APPROVED AS TO FORM:

Gary E. Rebenstorf, City Attorney
Director of Law

EXHIBIT “A”

DESCRIPTION OF THE OLD TOWN REDEVELOPMENT DISTRICT (TIF DISTRICT #4)

Within the City of Wichita, Sedgwick County, Kansas, beginning at the intersection of 2nd Street North and Washington Avenue, thence south along the center line of Washington Avenue to the intersection of Washington Avenue and Douglas Avenue, thence west along the center line of Douglas Avenue to the intersection of Douglas Avenue and the Atchison, Topeka and Santa Fe Railway System, thence north along the center line of the Atchison, Topeka, and Santa Fe Railway System to the intersection of the Atchison, Topeka, and Santa Fe Railway System and 2nd Street North, thence east along the center line of 2nd Street North to the intersection of 2nd North and Washington Avenue, being the point of beginning.



THE OLD TOWN REDEVELOPMENT DISTRICT (TAX INCREMENT FINANCING DISTRICT #4)

(Published in The Wichita Eagle on August ___, 2007)

ORDINANCE NO. _____

AN ORDINANCE MAKING AND FILING AN INCREMENT IN AD VALOREM TAXES FOR THE 21ST AND GROVE REDEVELOPMENT DISTRICT, CITY OF WICHITA, KANSAS, FOR THE FISCAL YEAR BEGINNING JANUARY 1, 2009, AND ENDING DECEMBER 31, 2009.

WHEREAS, the City of Wichita, Kansas, has established a Redevelopment District designated as the 21st and Grove Redevelopment District under authority of K.S.A. 12-1770 *et seq.* of the State of Kansas; and,

WHEREAS, the City has by ordinance adopted a redevelopment plan for the 21st and Grove Redevelopment District, the District being created in 1995; and,

WHEREAS, the City found that the conditions defined in K.S.A. 12-1770a of the State of Kansas did exist and therefore the increment in ad valorem taxes for the 21st and Grove Redevelopment District is collected on a yearly basis as defined in K.S.A. 12-1770a(x) of the State of Kansas; and,

WHEREAS, the City has by ordinance removed property and reduced the District boundaries, the District boundaries being modified in 2002; and,

WHEREAS, the boundaries of the 21st and Grove Redevelopment District are described in Exhibit "A" attached hereto;

NOW, THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS:

SECTION 1. The City of Wichita, Kansas, has adopted a budget estimating \$122,790 of increment funds in ad valorem taxes from the 21st and Grove Redevelopment District (the current boundaries of the District are described in Exhibit "A" attached hereto).

SECTION 2. In accordance with Section 1 hereof, the City of Wichita, Kansas, hereby estimates the increment to be collected from ad valorem taxes produced from property located within the 21st and Grove Redevelopment District at \$175,960 for the year beginning January 1, 2009, and ending December 31, 2009.

SECTION 3. The purpose of setting this increment is to pay the direct costs of infrastructure improvements within the Redevelopment District as defined in K.S.A. 12-1770a(q), such costs being integral to the increased development and property valuation within the District, incurred between January 1, 2009, and December 31, 2009, including principal and interest due on special obligation bonds or full faith and credit tax increment bonds issued to finance in whole or in part operation and

maintenance expenses and other expenses relating directly to infrastructure improvements within the Redevelopment District. The increment set herein is estimated based on assessment of the value of properties as reported by the Sedgwick County Appraiser's Office.

SECTION 4. That the Director of Finance of the City of Wichita, Kansas, is hereby directed to make proper certification of the increment estimated to be produced from ad valorem taxes that are to be levied in the 21st and Grove Redevelopment District to the County Clerk of Sedgwick County, Kansas, in conformity with and as provided by law.

SECTION 5. This ordinance shall take effect and be in full force and effect from and after its passage and publication once in the official City paper.

PASSED by the governing body of the City of Wichita, Kansas, this 12th day of August, 2008.

Carl Brewer, Mayor

ATTEST: (SEAL)

Karen Sublett, City Clerk

APPROVED AS TO FORM:

Gary E. Rebenstorf, City Attorney
Director of Law

EXHIBIT “A”

DESCRIPTION OF THE 21ST AND GROVE REDEVELOPMENT DISTRICT (TIF DISTRICT #5)

Within the City of Wichita, Sedgwick County, Kansas, beginning at the intersection of East 21st Street North and Grove Avenue thence south along the center line of Grove Avenue to the intersection of Grove Avenue and Stadium Avenue, thence west along the center line of Stadium Drive to the intersection of Stadium Drive and Madison Avenue, thence south along the center line of Madison Avenue to the point adjacent to the southeast corner of Lot 6 Block A in the J Walter Ross 2nd Addition on Stadium Drive, thence west to the center line of Piatt Avenue, thence north along the center line of Piatt Avenue to the intersection of Piatt Avenue and 21st Street North, thence east along the center line of 21st Street North to a point adjacent to the southwest corner of Lot 1 in the Logopedics Addition on 21st Street North, thence north to the center line of 25th Street North, thence east along the center line of 25th Street North to the point adjacent to the northeast corner of Reserve “C” in the Logopedics Addition, thence south to the center line of 21st Street North, thence east along the center line of 21st Street North to the point of beginning.



THE 21ST AND GROVE REDEVELOPMENT DISTRICT (TAX INCREMENT FINANCING DISTRICT #5)

(Published in The Wichita Eagle on August __, 2007)

ORDINANCE NO. _____

AN ORDINANCE MAKING AND FILING AN INCREMENT IN AD VALOREM TAXES FOR THE OLD TOWN CINEMA REDEVELOPMENT DISTRICT, CITY OF WICHITA, KANSAS, FOR THE FISCAL YEAR BEGINNING JANUARY 1, 2009, AND ENDING DECEMBER 31, 2009.

WHEREAS, the City of Wichita, Kansas, has established a Redevelopment District designated as the Old Town Cinema Redevelopment District under authority of K.S.A. 12-1770 *et seq.* of the State of Kansas; and,

WHEREAS, the City has by ordinance adopted a redevelopment plan for the Old Town Cinema Redevelopment District, the District being created in 1999; and,

WHEREAS, the City found that the conditions defined in K.S.A. 12-1770a of the State of Kansas did exist and therefore the increment in ad valorem taxes for the Old Town Cinema Redevelopment District is collected on a yearly basis as defined in K.S.A. 12-1770a(x) of the State of Kansas; and,

WHEREAS, the City has by ordinance reduced the District boundaries, the District boundaries being modified in 2001; and,

WHEREAS, the boundaries of the Old Town Cinema Redevelopment District are described in Exhibit "A" attached hereto;

NOW, THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS:

SECTION 1. The City of Wichita, Kansas, has adopted a budget estimating \$332,160 of increment funds in ad valorem taxes from the Old Town Cinema Redevelopment District (the current boundaries of the District are described in Exhibit "A" attached hereto).

SECTION 2. In accordance with Section 1 hereof, the City of Wichita, Kansas, hereby estimates the increment to be collected from ad valorem taxes produced from property located within the Old Town Cinema Redevelopment District at \$342,130 for the year beginning January 1, 2009, and ending December 31, 2009.

SECTION 3. The purpose of setting this increment is to pay the direct costs of infrastructure improvements within the Redevelopment District as defined in K.S.A. 12-1770a(q), such costs being integral to the increased development and property valuation within the District, incurred between

January 1, 2009 and December 31, 2009 including principal and interest due on special obligation bonds or full faith and credit tax increment bonds issued to finance in whole or in part operation and maintenance expenses and other expenses relating directly to infrastructure improvements within the Redevelopment District. The increment set herein is estimated based on assessment of the value of properties as reported by the Sedgwick County Appraiser's Office.

SECTION 4. That the Director of Finance of the City of Wichita, Kansas, is hereby directed to make proper certification of the increment estimated to be produced from ad valorem taxes that are to be levied in the Old Town Cinema Redevelopment District to the County Clerk of Sedgwick County, Kansas, in conformity with and as provided by law.

SECTION 5. This ordinance shall take effect and be in full force and effect from and after its passage and publication once in the official City paper.

PASSED by the governing body of the City of Wichita, Kansas, this 12th day of August, 2007.

Carl Brewer, Mayor

ATTEST: (SEAL)

Karen Sublett, City Clerk

APPROVED AS TO FORM:

Gary E. Rebenstorf, City Attorney
Director of Law

EXHIBIT “A”

DESCRIPTION OF THE OLD TOWN CINEMA REDEVELOPMENT DISTRICT (TIF DISTRICT #7)

Within the City of Wichita, Sedgwick County, Kansas, beginning at the intersection of East 3rd Street North and Washington Street, thence south along the centerline of Washington Street to the intersection of Washington Street and East 2nd Street North, thence west along the centerline of East 2nd Street North to the intersection of East 2nd Street North and Santa Fe Street, thence north along the centerline of Santa Fe Street to the intersection of Santa Fe Street and East 3rd Street North, thence east along the centerline of East 3rd Street North to the intersection of East 3rd Street North and Washington Street, being the point of beginning.

THE OLD TOWN CINEMA REDEVELOPMENT DISTRICT (TAX INCREMENT FINANCING DISTRICT #7)



(Published in The Wichita Eagle on _____, 2008)

ORDINANCE NO.

AN ORDINANCE MAKING AND FIXING GENERAL TAX LEVY FOR THE CITY OF WICHITA, KANSAS, FOR THE YEAR BEGINNING JANUARY 1, 2009, AND ENDING DECEMBER 31, 2009, AND RELATING THERETO, AND CONCURRENTLY APPROVING CERTAIN AMENDMENTS TO THE 2008 ADOPTED BUDGET.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS:

SECTION 1. The City of Wichita, Kansas has adopted a budget requiring \$100,840,350 in general taxes to be levied for the funds as specified below.

There is hereby levied by the City of Wichita, Kansas on all taxable tangible property in the City of Wichita, Kansas, according to the estimated assessed valuation thereof, a mill levy rate for the City of Wichita, Kansas, and said mill levy rate is subject to the actual determination of assessed valuation by the County Clerk. It is the intention of the City of Wichita to set a levy sufficient to raise the above amounts; PROVIDED, that said levy must remain within those limitations set by statute or charter ordinance.

SECTION 2. That in accordance with Section 1 hereof, there be and hereby is levied by the City of Wichita, Kansas, upon all the taxable property in the City of Wichita, Kansas, according to the assessed valuation thereof, the following amount for the use of the City of Wichita, Kansas, for the year 2009, which begins January 1, 2009, and ends December 31, 2009, for the following purposes, to wit:

| CALCULATION OF TAX DOLLARS TO BE LEVIED | | |
|---|------------------------|------------------|
| | <u>City of Wichita</u> | <u>Mill Levy</u> |
| Assessed Valuation | \$3,153,330,493 | |
| Taxes to be Levied: | | |
| General Fund | 72,460,380 | 22.979 |
| Debt Service Fund | <u>28,379,970</u> | <u>9.000</u> |
| Total: | 100,840,350 | 32.979 |

SECTION 3. It is hereby attested that in order to maintain the public services essential for the citizens of this city, it will be necessary to utilize property tax revenue in an amount exceeding the revenues expended in the budget year 2008. The estimated amount of increased property tax revenue is \$4,080,701.

SECTION 4. That the Director of Finance of the City of Wichita, Kansas, is hereby directed to make proper certification of the property taxes required in this ordinance to the County Clerk of Sedgwick County, Kansas, in conformity with and as provided by law.

SECTION 5. That the amendments to the 2008 Adopted Budget of the City of Wichita, Kansas, as proposed for consideration and noticed for public hearing concurrently with the proposed 2009 Budget, be, and the same (together with any modifications thereto as may have been made following the public hearing) hereby are, approved and adopted.

SECTION 6. This ordinance shall take effect and be in full force and effect from and after its passage and publication once in the official City paper.

PASSED by the governing body of the City of Wichita, Kansas, this 12 day of August, 2008

Carl Brewer, Mayor

ATTEST: (SEAL)

Karen Sublett, City Clerk

APPROVED AS TO FORM:

Gary E. Rebenstorf, City Attorney
and Director of Law

ORDINANCE NO.

AN ORDINANCE MAKING AND FILING AN INCREMENT IN AD VALOREM TAXES FOR THE GILBERT AND MOSLEY SITE REDEVELOPMENT DISTRICT, CITY OF WICHITA, KANSAS, FOR THE FISCAL YEAR BEGINNING JANUARY 1, 2009, AND ENDING DECEMBER 31, 2009.

WHEREAS, the City of Wichita, Kansas, has established a Redevelopment District designated as the Gilbert and Mosley Site Redevelopment District under authority of K.S.A. 1990 Supp. 12-1770 *et seq.*, and Chapter 59 of the 1991 Sessions Laws of the State of Kansas; and,

WHEREAS, the City has by ordinance passed upon a 2/3 vote adopted a redevelopment plan for the Gilbert and Mosley Site Redevelopment District, the District being created in 1991; and,

WHEREAS, the City found that the conditions set forth in Section 1(a)(2) of Chapter 59 of the 1991 Session Laws of the State of Kansas did exist and therefore the increment in ad valorem taxes for the Gilbert and Mosley Site Redevelopment District is set on a yearly basis as provided in Section 2(b) of Chapter 59 of the 1991 Session Laws of the State of Kansas; and,

WHEREAS, the boundaries of the Gilbert and Mosley Site Redevelopment District are described in "Exhibit A" attached hereto

NOW, THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS:

SECTION 1. The City of Wichita, Kansas, has adopted a budget requiring \$2,670,040 of increment funds in ad valorem taxes from the Gilbert and Mosley Site Redevelopment District (the current boundaries of the District are described in "Exhibit A" attached hereto).

SECTION 2. In accordance with Section 1 hereof, the City of Wichita, Kansas, hereby sets the increment to be collected from ad valorem taxes produced from property located within the Gilbert and Mosley Site Redevelopment District at \$2,670,040 for the year beginning January 1, 2009, and ending December 31, 2009.

SECTION 3. The purpose of setting this increment is to pay the direct costs of investigation and remediation of the contaminated condition that exists in the Gilbert and Mosley Site Redevelopment District that are anticipated to be incurred between January 1, 2009, and December 31, 2009, including principal and interest due on special obligation bonds or full faith and credit tax increment bonds issued to finance in whole or in part operation and maintenance expenses and other expenses relating directly to the investigation and remediation of contamination. The increment set herein does not exceed twenty percent (20%) of the amount of taxes that were produced in 1991, which was the year the Gilbert and Mosley Site Redevelopment District was first established.

SECTION 4. That the Director of Finance of the City of Wichita, Kansas, is hereby directed to make proper certification of the increment to be produced from ad valorem taxes that are to be levied in the Gilbert and Mosley Site Redevelopment District to the County Clerk of Sedgwick County, Kansas, in conformity with and as provided by law.

SECTION 5. This ordinance shall take effect and be in full force and effect from and after its passage and publication once in the official City paper.

PASSED by the governing body of the City of Wichita, Kansas, this 12th day of August 2008.

Carl Brewer, Mayor

ATTEST: (SEAL)

Karen Sublett, City Clerk

APPROVED AS TO FORM:

Gary E. Rebenstorf, City Attorney
Director of Law

BUDGET SUMMARY

The expenditures, revenues and the amount of 2009 tax to be levied (published below) establish the maximum limits of the 2009 budget for the Groundwater Contamination Project of the Gilbert and Mosley Site Redevelopment District.

| Gilbert and Mosley Site Redevelopment District | | Amount To |
|--|------------------------------------|-------------------------|
| <u>Revenues:</u> | <u>2008 Proposed Budget</u> | <u>Be Levied</u> |
| Contributions - potentially responsible parties | 150,000 | |
| Interest earnings | 253,170 | |
| KDHE reimbursements | 120,000 | |
| Cost to be funded by a levy from the Gilbert and Mosley Site Redevelopment District* | <u>2,543,610</u> | <u>\$ 2,543,610</u> |
| Total Revenues | \$ 3,066,780 | |
| <u>Expenditures:</u> | | |
| Personal services | 0 | |
| Contractuals | 1,466,540 | |
| Commodities | 33,160 | |
| Capital outlay | 965,000 | |
| Debt service / temporary notes | 1,904,070 | |
| Transfers | 153,740 | |
| Environmental remediation projects | <u>1,375,000</u> | |
| Total Expenditures | \$ 5,897,510 | |

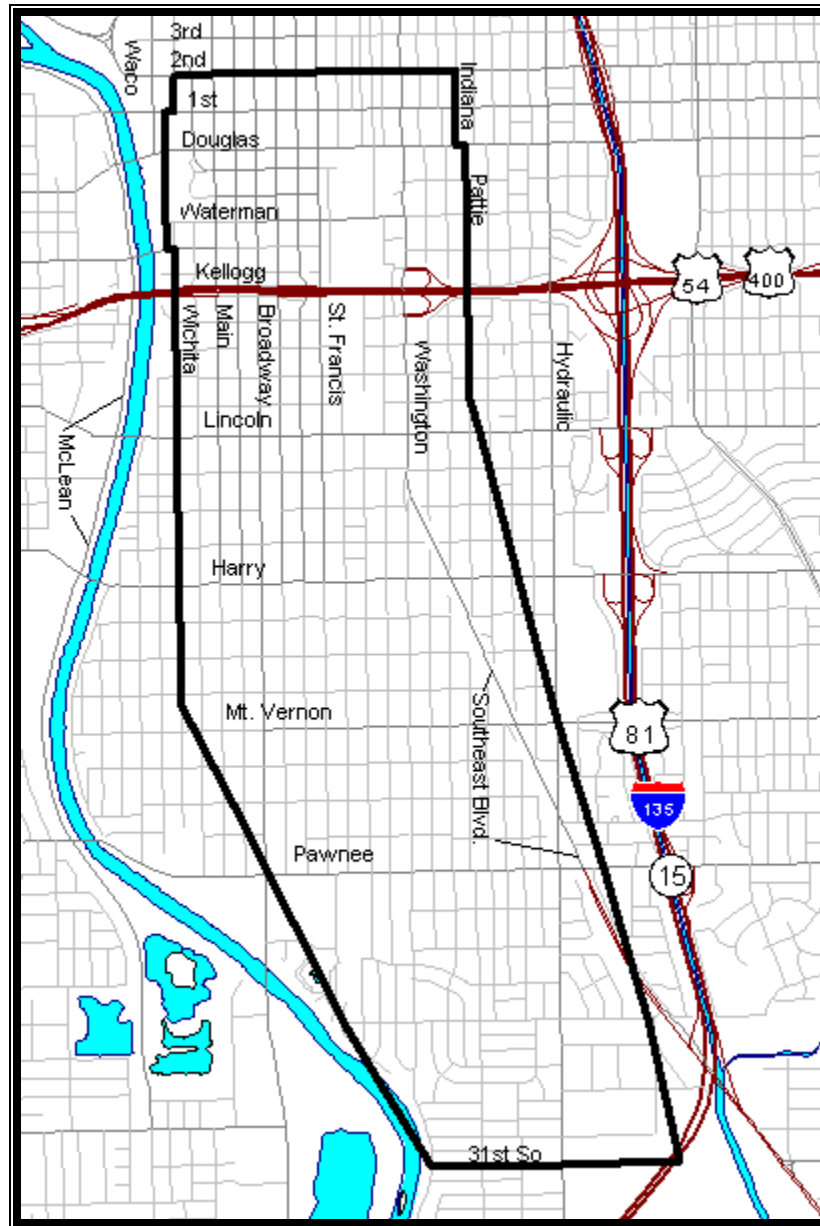
* The Gilbert and Mosley Site Redevelopment District was formed under authority of Ordinance No. 41-446 and K.S.A. 12-1770 *et seq.*

K.S.A. 12-1771a(d) provides that the real property taxes produced by the environmental increment from a redevelopment district shall be allocated and paid by the County Treasurer to the Treasurer of the City and deposited in a special separate fund of the City to pay the direct cost of investigation and remediation of contamination in the redevelopment district. K.S.A. 12-1771a(b) provides that the environmental increment is set on a yearly basis and each year's increment shall be set in an amount sufficient to pay the direct costs of investigation and remediation of the contaminated condition anticipated to be incurred that year. The mill levy rate for property located inside the Redevelopment District does not increase as a result of this levy. Therefore, an estimate of the mill levy rate is not included in this budget summary.

Karen Sublett, City Clerk

DESCRIPTION OF THE GILBERT AND MOSLEY SITE REDEVELOPMENT DISTRICT (TIF DISTRICT #1)

Within the City of Wichita, Sedgwick County, Kansas, bounded on the north by Second Street; on the west by Wichita Street from Second Street to First Street; thence west on First Street to Civic Center Place; thence south on Civic Center Place and Civic Center Place extended to Lewis and Wichita Street; thence south along Wichita Street to Skinner Street; thence southeast including part of the 1900 block of South Wichita Street, the 2000 block of South Water Street, the 2100 block of South Main Street, the 2200 block of South Market Street, the 2300, 2400 and 2500 blocks of South Santa Fe Street; from Santa Fe Street and Greenway Boulevard to 31st Street South and Washington, 31st Street South being the south boundary; thence along 31st Street South to Interstate Highway I-135; thence northwesterly along the east boundary including the 3000 and 2900 blocks of South Madison, Northern and Wassall Streets, west of Madison, Wassall west of Southeast Boulevard, 1805 Glen Oaks Drive, the 2500 block of South Southeast Drive, the 1900 block of East Pawnee, Blake Street west of Minnesota Street, Stafford Street west of Minneapolis Street, the west side of Minneapolis between Stafford Street and Hodson Street, west of Kansas Street between Hodson Street and Mt. Vernon Street, Linwood Park, west of Hydraulic Avenue from Mt Vernon Street to Funston Street, the 1600 and 1700 blocks of South Greenwood, the 1400 and 1500 blocks of South Ellis, the 1200 and 1300 blocks of South Lulu, thence beginning at the 1000 block of Pattie, north along Pattie to Douglas, thence west along Douglas to Indiana; thence north along Indiana to Second Street being the north boundary.



**THE GILBERT & MOSLEY SITE REDEVELOPMENT DISTRICT
(TAX INCREMENT FINANCING DISTRICT #1)**

(Published in The Wichita Eagle on _____, 2008

ORDINANCE NO.

AN ORDINANCE MAKING AND FILING AN INCREMENT IN AD VALOREM TAXES FOR THE NORTH INDUSTRIAL CORRIDOR REDEVELOPMENT DISTRICT, CITY OF WICHITA, KANSAS, FOR THE FISCAL YEAR BEGINNING JANUARY 1, 2009, AND ENDING DECEMBER 31, 2009.

WHEREAS, the City of Wichita, Kansas, has previously, by Ordinance No. 43-009, established a Redevelopment District designated as the North Industrial Corridor Redevelopment District under authority of K.S.A. 12-1770, *et seq.*; and,

WHEREAS, the City has by ordinance passed, upon a 2/3 affirmative vote of the governing body, a redevelopment plan for the North Industrial Corridor Redevelopment District, the District being created in 1996; and,

WHEREAS, the City has previously found that the conditions set forth in K.S.A. 1995 Supp. 12-1771(a)(2) did exist and therefore the increment in ad valorem taxes for the North Industrial Corridor Redevelopment District is set on a yearly basis as provided in K.S.A. 12-1771a(b); and,

WHEREAS, the boundaries of the North Industrial Corridor Redevelopment District are described in "Exhibit A" attached hereto

NOW, THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS:

SECTION 1. The City of Wichita, Kansas, has adopted a budget requiring \$1,165,300.00 of increment funds in ad valorem taxes from the North Industrial Corridor Redevelopment District (the boundaries of the District are described in "Exhibit A" attached hereto).

SECTION 2. In accordance with Section 1 hereof, the City of Wichita, Kansas, hereby sets the increment to be collected from ad valorem taxes produced from property located within the North Industrial Corridor Redevelopment District at \$1,165,300.00 for the year beginning January 1, 2009, and ending December 31, 2009.

SECTION 3. The purpose of setting this increment is to pay the direct costs of investigation and remediation of the contaminated condition that exists in the North Industrial Corridor Redevelopment District that are anticipated to be incurred between January 1, 2008, and December 31, 2008, including costs of remediation and investigation, and feasibility studies, operation and maintenance expenses and other expenses relating directly to the investigation and remediation of contamination. The increment set herein does not exceed twenty percent (20%) of the amount of taxes that were produced in 1996, which is the year in which the North Industrial Corridor Redevelopment District was first established.

SECTION 4. That the Director of Finance of the City of Wichita, Kansas, is hereby directed to make proper certification of the increment to be produced from ad valorem taxes that are to be levied in the North Industrial Corridor Redevelopment District to the County Clerk of Sedgwick County, Kansas, in conformity with and as provided by law.

SECTION 5. This ordinance shall take effect and be in full force and effect from and after its passage and publication once in the official City paper.

PASSED by the governing body of the City of Wichita, Kansas, this 12th day of August 2008.

Carl Brewer, Mayor

ATTEST: (SEAL)

Karen Sublett, City Clerk

APPROVED AS TO FORM:

Gary E. Rebenstorf, City Attorney
Director of Law

BUDGET SUMMARY

The expenditures, revenues and the amount of 2008 tax to be levied (published below) establish the maximum limits of the 2008 budget for the Groundwater Contamination Project of the North Industrial Corridor Redevelopment District.

| North Industrial Corridor Redevelopment District | | Amount To |
|--|------------------------------------|----------------------------|
| <u>Revenues:</u> | <u>2008 Proposed Budget</u> | <u>Be Levied</u> |
| Contributions - potentially responsible parties | 0 | |
| Interest earnings | 150,000 | |
| Cost to be funded by a levy from the North Industrial Corridor Redevelopment District* | <u>1,165,300</u> | <u>\$ 1,165,300</u> |
| Total Revenues | \$1,315,300 | |
| | | |
| <u>Expenditures:</u> | | |
| Personal services | 0 | |
| Contractuals | 1,027,740 | |
| Commodities | 3,750 | |
| Capital outlay | 0 | |
| Other | 100,300 | |
| Environmental remediation projects | <u>5,800,000</u> | |
| Total Expenditures | \$6,931,790 | |

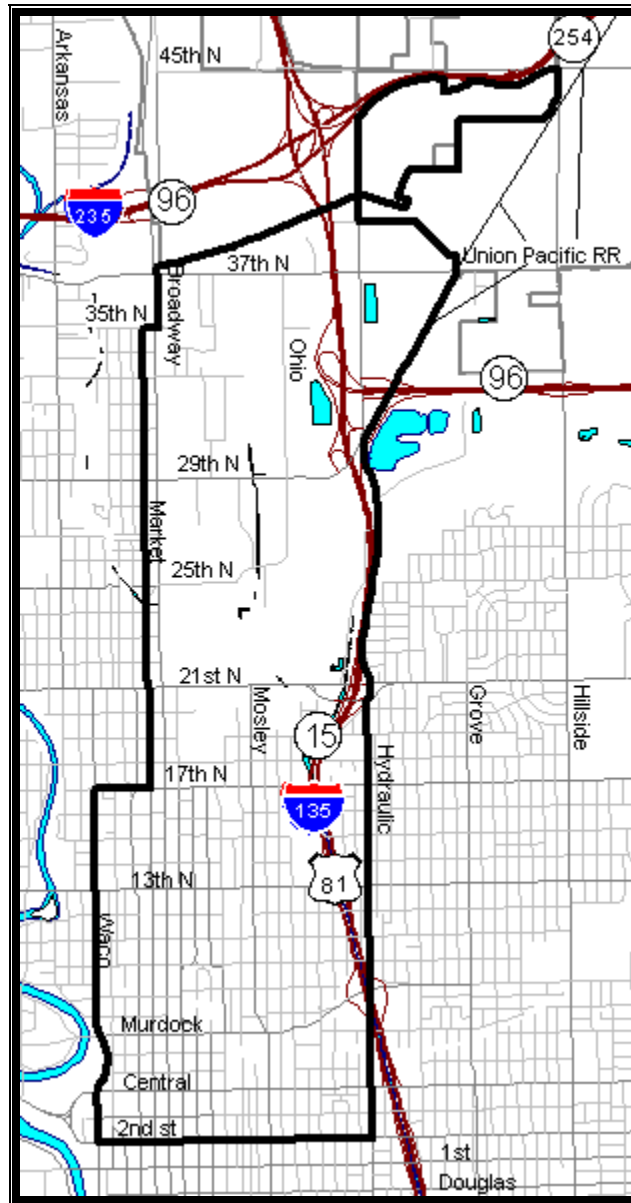
* The North Industrial Corridor Redevelopment District was formed under authority of Ordinance No. 43-009 and K.S.A. 12-1770 *et seq.*

K.S.A. 12-1771a(d) provides that the real property taxes produced by the environmental increment from a redevelopment district shall be allocated and paid by the County Treasurer to the Treasurer of the City and deposited in a special separate fund of the City to pay the direct cost of investigation and remediation of contamination in the redevelopment district. K.S.A. 12-1771a(b) provides that the environmental increment is set on a yearly basis and each year's increment shall be set in an amount sufficient to pay the direct costs of investigation and remediation of the contaminated condition anticipated to be incurred that year. The mill levy rate for property located inside the Redevelopment District does not increase as a result of this levy. Therefore, an estimate of the mill levy rate is not included in this budget summary.

Karen Sublett, City Clerk

DESCRIPTION OF THE NORTH INDUSTRIAL CORRIDOR REDEVELOPMENT DISTRICT (TIF DISTRICT #2)

Within the City of Wichita, Sedgwick County, Kansas, beginning at the intersection of 37th Street North and Broadway Avenue, thence south along the center line of Broadway Avenue to the intersection of Broadway Avenue and 35th Street North, thence west along the center line of 35th Street North to the intersection of 35th Street North and Market Street, thence south along the center line of Market Street to the intersection of Market Street and 17th Street, thence west along the center line of 17th Street to the intersection of 17th Street and Waco Avenue, thence south along the center line of Waco Avenue to the intersection of Waco Avenue and Second Street, thence east along the center line of Second Street to the intersection of Second Street and Hydraulic Avenue, thence north along the center line of Hydraulic Avenue to the point where the center line of Hydraulic Avenue intersects the east right of way of Interstate Highway I-135, thence generally north along the east right of way of Interstate Highway I-135 to the point where the east right of way of Interstate Highway I-135 intersects the west right of way of the Union Pacific Railroad, thence generally northeast along the west right of way of the Union Pacific Railroad to the center line of 37th Street North, thence generally northwest and southeast along the boundary line of the corporate limits of the City of Wichita as defined by the boundary resolution of December 19, 1995, to the center line of Hydraulic Avenue, thence north along the center line of Hydraulic Avenue to the south right of way of State Highway K-254, thence generally east along the south right of way of State Highway K-254 to the center line of Hillside Avenue, thence generally northeast and southwest along the boundary line of the corporate limits of the City of Wichita to the intersection of 37th Street North and Broadway Avenue, being the point of beginning.



**THE NORTH INDUSTRIAL CORRIDOR REDEVELOPMENT DISTRICT
(TAX INCREMENT FINANCING DISTRICT #2)**

(Published in The Wichita Eagle on August __, 2007)

ORDINANCE NO.

AN ORDINANCE MAKING AND FIXING GENERAL TAX LEVY FOR THE DOWNTOWN WICHITA SELF-SUPPORTED MUNICIPAL IMPROVEMENT DISTRICT FOR THE YEAR BEGINNING JANUARY 1, 2009, AND ENDING DECEMBER 31, 2009.

WHEREAS, the City of Wichita, Kansas, has established the Downtown Wichita Self-Supported Municipal Improvement District ("District") by Ordinance No. 44-895 under the authority of K.S.A. 12-1794, et seq., effective March 24, 2001, and the governing body of the City serves as the governing body of the District; and,

WHEREAS, pursuant to K.S.A. 12-17,102, the governing body of the District is authorized to levy taxes annually within the District to carry out the purposes of the District; and

WHEREAS, the Downtown Wichita Self-Supported Municipal Improvement District Advisory Board has submitted a proposed budget to the governing body of the District as required by law;

NOW, THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS:

SECTION 1. The governing body of the Downtown Wichita Self-Supported Municipal Improvement District ("District") has adopted a budget requiring \$636.046 in general taxes to be levied for the fund of the District for the year 2009, which begins January 1, 2009, and ends December 31, 2009. The boundaries of the District are as follows:

Beginning at the east bank of the Arkansas River and the Kellogg Street Fly Over, eastward to Washington Street; North along Washington Street to Central Avenue; West along Central Avenue to its intersection with Greenway Boulevard; and along a line south through the War Memorial Park to the east bank of the Arkansas River; South along the east bank of the Arkansas River to the point of beginning at the Kellogg Street Fly Over, all in Wichita, Sedgwick County Kansas, EXCEPT AND EXCLUDING THEREFROM THE REAL PROPERTY DESCRIBED AS Lot 2, Emerson Addition to the City of Wichita, Sedgwick County, Kansas.

And as shown upon the map attached as Exhibit A and made a part of this ordinance.

SECTION 2. There is hereby levied by the governing body of the District on all taxable tangible property in the District, according to the estimated assessed valuation thereof, a mill levy rate for the District, and said mill levy rate is subject to the actual determination of assessed valuation by the County Clerk. It is the intention of the City of Wichita to set a levy sufficient to raise the above amounts; PROVIDED, that said levy must remain within those limitations set by statute or ordinance.

SECTION 3. That in accordance with Section 2 hereof, there be and hereby is levied upon all

the taxable property in the District, according to the assessed valuation thereof, the following amount for the use of the District, for the year 2009, which begins January 1, 2009, and ends December 31, 2009, to wit:

CALCULATION OF TAX DOLLARS TO BE LEVIED

| | <u>District</u> | <u>Mill Levy</u> |
|---------------------|------------------------|-------------------------|
| Assessed Valuation | \$106,898,431 | |
| Taxes to be Levied: | \$622,817 | 5.95 |

SECTION 4. It is hereby attested that in order to maintain the public services essential for the District, it will be necessary to utilize property tax revenue in an amount exceeding the revenues expended in the budget year 2009. The estimated amount of the increased property tax revenue is \$17,191.

SECTION 5. That the Director of Finance of the City of Wichita, Kansas, is hereby directed to make proper certification of the property taxes required in this ordinance to the County Clerk of Sedgwick County, Kansas, in conformity with and as provided by law.

SECTION 6. This ordinance shall take effect and be in full force and effect from and after its passage and publication once in the official City paper.

PASSED by the governing body of the City of Wichita, Kansas, this 12th day of August, 2008.

Carl Brewer, Mayor

ATTEST: (SEAL)

Karen Sublett, City Clerk

APPROVED AS TO FORM:

Gary E. Rebenstorf, City Attorney
Director of Law

DESCRIPTION OF THE DOWNTOWN SELF-SUPPORTING MUNICIPAL IMPROVEMENT DISTRICT (SSMID)

Within the City of Wichita, Sedgwick County, Kansas, beginning at the east bank of the Arkansas River and the Kellogg Street Fly Over, eastward to Washington Street; north along Washington Street to Central Avenue; west along Central Avenue to its intersection with Greenway Boulevard; and along a line south through the War Memorial Park to the east bank of the Arkansas River; south along the east bank of the Arkansas River to the point of beginning at the Kellogg Street Fly Over, all in Wichita, Sedgwick County, Kansas, EXCEPT AND EXCLUDING THEREFROM THE REAL PROPERTY DESCRIBED AS Lot 2, Emerson Addition to the City of Wichita, Sedgwick County, Kansas.

**City of Wichita
City Council Meeting
July 22, 2008**

TO: Mayor and City Council
SUBJECT: 2009 Annual Operating Budget and 2008 Budget Revisions
INITIATED BY: Department of Finance
AGENDA: New Business

Larry Carpenter

Recommendations: Set public hearing, authorize notice, and place the ordinances on first reading.

Background: The City Council has received the City Manager's Proposed 2009/2010 Budget (including tax increment financing districts). The Council is receiving public comment at its weekly Council meetings.

Analysis: The proposed 2009 annual operating budget is \$494,529,994 including all Tax Increment Financing (TIF) Funds and the Self-Supporting Municipal Improvement District (SSMID) Fund. Interfund transactions and appropriated reserves increase this amount to \$621,293,552. The inclusion of expendable trust funds, as required by law, is an additional \$70,552,455 for a total of \$691,846,007. The estimated mill levy for this budget would be 31.979 mills, no change from the levy for the current 2008 Adopted Budget.

The General Fund property tax levy is \$72,460,380 (including a delinquency allowance) at an estimated 22.979 mills. The levy for the Debt Service Fund is \$28,379,970 (including a delinquency allowance) and is estimated at 9.000 mills.

There are a total of seven TIF Funds, two environmental TIFs (Gilbert & Mosley and North Industrial Corridor) and five economic TIFs (East Bank, Old Town, 21st & Grove, Old Town Cinema,). The combined resources of the seven TIF Funds are \$8,234,820, of which \$7,100,530 is derived from property tax increments.

The SSMID Fund is included in the proposed budget assuming a 3% increase in assessed valuation. Assuming a mill levy rate of 5.95 mills (a slight decrease from the levy for the current 2008 Adopted Budget) and a delinquency factor of 6%, the new valuation projections would result in \$598,170 revenue net of delinquency in fiscal year 2009 (2008 taxes levied). Factoring revenue from prior year delinquencies (\$7,500), the State M&E Mitigation payment (\$3,000), and motor vehicle tax revenue (\$28,819) results in a total of \$637,489 in revenue.

The dollar amounts, after they are set in the published notice of hearings on the proposed budget, cannot be exceeded, although the City Council may determine subsequently to reduce the mill rate. Formal hearing and adoption of the budget is scheduled for August 12th. If subsequent actions result in an increase to the budget, a process of republication, hearings and certification will be required.

In addition to action on the 2009 Budget, it is requested that action be taken to amend the 2008 Adopted Budget – as contained in the proposed budget submitted to the City Council:

1. The **Sales Tax Construction Pledge Fund** increase of \$1,608,410 is due to increased transfers to capital projects based on a higher than expected carry forward balance.
2. The **Debt Service Fund** increase of \$651,826 is due to an increase in pay-as-you-go financing for capital improvement projects, which will reduce future borrowing costs.
3. The **City-County Joint Operations Fund** increase of \$150,600 is due to the re-calculation of staff personal services, with expenditures increasing due primary to changes in employee benefit utilization, and base wages, due to employee turnover.

4. The **Property Management Fund** increase of \$408,046 is due to the transfer of the projected balance from this fund to the Economic Development Fund at year end 2008. The Property Management Fund is proposed to be consolidated, consistent with the consolidation of economic development activities within the Office of Urban Development.
5. The **Art Museum Board Fund** increase of \$176,000 reflects the expenditure of additional General Fund monies transfers to the Art Museum Fund (as part of the supplemental cultural arts funding), based on the recommendations of the Cultural Arts Task Force.
6. The **Cemetery Fund** increase of \$24,320 reflects the additional costs associated with the City's assumption of maintenance on the Old Mission Mausoleum.

Financial Considerations: Publication of the notice of formal hearing will set the maximum dollars that may be expended in each fund. The City Council may subsequently reduce expenditures required (and proposed tax dollars to be levied) but not increase them.

Goal Impact: The adoption of the annual budget provides the funding sources for services provided in each of the five goal areas.

Legal Considerations: As required by law, the proposed budget will be published with appropriated balances. State statutes require formal public hearings prior to approval of the annual operating budget and for budget amendments of published funds. The 2009 Budget must be adopted by the City Council on August 12, and will be filed with the County Clerk by the statutory date of August 25.

Recommendation: It is recommended that the City Council set the public hearing on the proposed 2009 Budget (including the Tax Increment Financing Districts and the Self-Supporting Municipal Improvement District downtown) and the revised 2008 Budget for August 12, 2008; authorize publication of the formal public hearing notice; approve first reading of the general budget, TIF district, and SSMID ordinances; and set a maximum amount of taxes levied (\$100,940,350) based on an anticipated mill levy of 31.979 mills (no change from the current mill levy) and an estimated assessed valuation of \$3,153 billion.

Attachments:

Notice of budget hearing – Proposed budget 2009 Expenditures
Notice of budget hearing – Amending the 2008 Budget
Notice of budget hearing – Proposed budget 2009 Tax Increment Financing Funds (TIF)
Notice of budget hearing – Proposed budget 2009 Expenditures - SSMID
Ordinance – fixing general tax levy – City of Wichita
Ordinance – East Bank Redevelopment TIF
Ordinance – Old Town Redevelopment TIF
Ordinance – 21st and Grove Redevelopment TIF
Ordinance – Central and Hillside Redevelopment TIF
Ordinance – Old Town Cinema Redevelopment TIF
Ordinance – Gilbert and Mosley Site Redevelopment TIF
Ordinance – North Industrial Corridor Redevelopment TIF
Ordinance – Fixing General Tax Levy - Downtown Wichita Self Supported Municipal Improvement District

City of Wichita
City Council Meeting
July 22, 2008

TO: Mayor and City Council

SUBJECT: Water Monthly Base Charge Increase - Ordinance

INITIATED BY: Water Utilities

AGENDA: New Business

Recommendation: Approve the Ordinance for an increase per meter for all water accounts.

Background: The City's current water rate structure relies heavily on normal irrigation patterns during the summer months to produce adequate revenue to recover the full cost of service. In 2007, the water utility experienced a \$3.5 million dollar shortfall in projected revenues. This was due to a wetter-than-normal early spring and summer. Wichita has received 90 percent of its normal annual rainfall in the first six (6) months of the year. A revenue shortfall is anticipated that will equal or be greater than 2007.

Additionally, the minimum debt service coverage ratio of 1.2 was barely achieved in 2007. A ratio less than 1.2 will make it impossible for the utility to borrow additional money for necessary capital improvements.

Analysis: Increasing water rates by an across-the-board percentage does not assure receiving projected revenues, as weather outside-of-average conditions impact revenue productivity. To insulate water revenues somewhat from weather related negative impacts, Staff recommends increasing the monthly base charge on all accounts. Approximately 140,000 accounts are served by the Water Utility which will produce \$140,000 in additional revenue per month. Inside City accounts will be increased by \$1.00 per month while outside City accounts will increase by \$1.60 (the standard differential between inside City and outside City rates). This amount will not be affected by weather patterns.

Revenue productivity has been further complicated by the need to fund future water supply projects that are critical to the City's future. Staff estimates that Phase II of the Integrated Local Water Supply Plan will cost \$230 million, making this the largest single capital project in the department's history.

Staff will present for further consideration an additional modification of the water rate volume charge structure to provide additional improvements in revenue productivity. This modification will be presented to the City Council with the 2009 budget to be effective January 1, 2009. Without the recommended adjustments to increase revenues and revenue productivity, it is certain that water and sewer capital improvements, including development of a new water supply, will cease.

Financial Considerations: Wichita's utilities are true enterprises. All revenue for the operation, maintenance and capital improvements of the system is derived from the sale of services. Wichita's revenue bond covenants require a debt service coverage ratio of 1.2 or higher in order to borrow additional money. The proposed increase in the water base charge will produce approximately \$1,680,000 in additional revenue annually.

Goal: Increasing water rates will help provide reliable and secure infrastructure.

Legal Considerations: Water rates and charges are established by Ordinances adopted by the City Council. The Law Department has reviewed and approved the Ordinance as to form.

Recommendations/Actions: It is recommended that the City Council adopt the Ordinance effective August 1, 2008, to increase water monthly base charges and place the Ordinance on first reading.

Attachments: Rate Ordinance (17.12.090)
Delineated Ordinance
bill comparisons
Black & Veatch 2007 Rate Survey

ORDINANCE NO. _____

AN ORDINANCE AMENDING SECTION 17.12.090 OF
THE CODE OF THE CITY OF WICHITA, KANSAS, PERTAINING TO
SCHEDULE OF RATES AND CHARGES FOR WATER SERVICE,
AND REPEALING THE ORIGINAL OF SAID SECTION.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF WICHITA,
KANSAS:

SECTION 1. Section 17.12.090 of the Code of the City of Wichita is hereby amended to read
as follows:

WATER RATES AND CHARGES. On and after August 1, 2008, the schedule of rates
and charges as set forth below shall apply to all categories of water customers with metered, flat
rate or fire protection services:

I. MINIMUM WATER SERVICE CHARGES

Minimum water service charges per monthly billing period, based on water service
sizes, shall be assessed to all customers who have service availability at any time during a billing
period as shown below. An individual is deemed to have service available if the private water
service system, at the individual's residence or business, has been connected to the City of
Wichita's water system at any time during a billing period. The minimum charge is to be applied
regardless of whether or not any water volume passed from the City to private water systems
during a billing period. Water service connections deemed inactive by the Director of Water &
Sewer shall not be assessed minimum water service charges.

A. METERED WATER SERVICES

INSIDE CITY

MINIMUM MONTHLY

| <u>WATER METER SIZES</u> | <u>2008 & Beyond</u> |
|---------------------------------|---------------------------------|
| 5/8 inch | \$ 7.27 |
| 3/4 inch | 7.32 |
| 1 inch | 7.52 |
| 1 1/2 inch | 7.79 |
| 2 inch | 8.50 |
| 3 inch | 13.87 |
| 4 inch | 15.86 |
| 6 inch | 20.49 |
| 8 inch | 25.78 |
| 10 inch | 29.10 |
| 12 inch | 36.38 |

OUTSIDE CITY & WHOLESALE METERED WATER SERVICES

MINIMUM MONTHLY

| <u>WATER METER SIZES</u> | <u>2008 & Beyond</u> |
|---------------------------------|---------------------------------|
| 5/8 inch | \$ 11.63 |
| 3/4 inch | 11.71 |

| | |
|------------|-------|
| 1 inch | 12.03 |
| 1 1/2 inch | 12.46 |
| 2 inch | 13.60 |
| 3 inch | 22.19 |
| 4 inch | 25.38 |
| 6 inch | 32.78 |
| 8 inch | 41.25 |
| 10 inch | 46.56 |
| 12 inch | 58.21 |

B. FLAT RATE/UNMETERED MONTHLY CHARGES

2008 & Beyond

\$ 14.65

C. FIRE PROTECTION MONTHLY CHARGES

INSIDE CITY

MINIMUM MONTHLY

| <u>WATER METER SIZES</u> | <u>2008 & Beyond</u> |
|--------------------------|--------------------------|
| 5/8 inch | \$.84 |
| 3/4 inch | .87 |
| 1 inch | .97 |
| 1 1/2 inch | 1.16 |
| 2 inch | 1.61 |

| | |
|---------|-------|
| 3 inch | 4.90 |
| 4 inch | 6.13 |
| 6 inch | 8.98 |
| 8 inch | 12.23 |
| 10 inch | 14.26 |
| 12 inch | 18.75 |

OUTSIDE CITY

MINIMUM MONTHLY

| <u>WATER METER SIZES</u> | <u>2008 & Beyond</u> |
|---------------------------------|---------------------------------|
| 5/8 inch | \$ 1.34 |
| 3/4 inch | 1.39 |
| 1 inch | 1.56 |
| 1 1/2 inch | 1.86 |
| 2 inch | 2.58 |
| 3 inch | 7.84 |
| 4 inch | 9.81 |
| 6 inch | 14.38 |
| 8 inch | 19.57 |
| 10 inch | 22.82 |
| 12 inch | 30.01 |

II. WATER VOLUME CHARGES

Charges for any volume of water passing from the City of Wichita water system to a

private water system shall be billed to the individual residing at the residence or business. Volume charges shall not apply to flat rate services which have been properly established with the Water & Sewer Department.

A. AVERAGE WINTER CONSUMPTION

Average winter consumption (AWC) shall be defined as the arithmetic mean monthly consumption computed by adding the metered consumption on bills rendered during the months of December, January, February, and March and then dividing this sum by the number of billings rendered during these same months. Each customer's AWC shall be recalculated in April of each year. Metered consumption charges for ensuing twelve months shall be computed utilizing the AWC as calculated each April, apportioning usage among the applicable rate blocks as designated below. In those instances where no consumption data exists for the calculation of an AWC for particular customers, the Director of Water & Sewer shall determine the most appropriate method of establishing average winter consumptions for such circumstances. The minimum monthly AWC for any metered service sized one (1) inch or less shall be 6,000 gallons. If a billing period of greater than one month (defined as days of service within twenty eight to thirty one days), is used, the actual or minimum AWC shall be adjusted accordingly on a daily basis.

B. RETAIL VOLUME CHARGES

INSIDE CITY

Rates Per

1,000 Gallons

2008 & Beyond

Block 1: Metered Consumption Through

110% of AWC

\$ 0.88

Block 2: Metered Consumption Between

111% and 310% of AWC and

from Fire Services

\$ 3.17

Block 3: Metered Consumption Above

310% of AWC

\$ 4.76

OUTSIDE CITY

Rates Per

1,000 Gallons

2008 & Beyond

Block 1: Metered Consumption Through

| | | |
|-------------|----|------|
| 110% of AWC | \$ | 1.41 |
|-------------|----|------|

Block 2: Metered Consumption Between

| | | |
|--------------------------|----|------|
| 111% and 310% of AWC and | | |
| from Fire Services | \$ | 5.07 |

Block 3: Metered Consumption Above

| | | |
|-------------|----|------|
| 310% of AWC | \$ | 7.62 |
|-------------|----|------|

C. RETAIL VOLUME CONSERVATION CONTRACT RATES

In order to obtain significant reductions in customers' annual water use, through more efficient use of Wichita's water resources, the Director of Water & Sewer is empowered to negotiate and execute contracts with retail customers which provide for a significant annual water savings by customers in return for charging all water use at the retail volume conservation contract rate. The Water & Sewer Director is further empowered to establish such rules and regulations in contract terms as may be necessary to most equitably carry out the intent of this section. Rules and regulations shall be promulgated based on the needs of the City of Wichita as demonstrated in its water conservation plan and programs to address the requirements of the State of Kansas. In all circumstances, customers seeking to qualify for the conservation contract rate must make written application to the Director of Water & Sewer, detailing methods to be employed to conserve water, the time frame for implementing such conservation methods and the expected annual water savings in gallons per year to be derived from implementing such conservation plans. Each January, customers who have entered into conservation contract rate agreements shall report the results of their conservation initiatives to the Director of Water & Sewer. If the Director of Water & Sewer determines that any customer did not meet the goal, then a billing will be rendered to the customer to reconcile charges for the proportion of the customer's prior year total annual consumption volume that did not qualify for the retail conservation contract rate as determined by the formula below:

$$(\text{PRIOR YEAR'S RETAIL VOLUME CHARGE BLOCK 2 RATE} - \text{PRIOR YEAR'S RETAIL VOLUME CONSERVATION CONTRACT RATE}) \times ((\text{PRIOR YEAR'S ANNUAL WATER USE}/1,000) \times (1 - (\text{PRIOR YEAR'S ACTUAL ANNUAL GALLONS OF WATER SAVED} / \text{PRIOR YEAR'S PROJECTED ANNUAL GALLONS OF WATER SAVED})))$$

Customers exceeding their water conservation goals may use such excess savings in gallons as a credit toward the next year's water savings goal. This rate shall only be made available to customers who can demonstrate potential water savings that would be considered economically significant to the City of Wichita as determined by the Director of Water & Sewer.

INSIDE CITY CONSERVATION CONTRACT RATE

Rates Per

1,000 Gallons

2008 & Beyond

| | |
|----------------------------------|---------|
| Block 1: All Metered Consumption | \$ 2.08 |
|----------------------------------|---------|

OUTSIDE CITY CONSERVATION CONTRACT RATE

Rates Per

1,000 Gallons

2008 & Beyond

| | |
|----------------------------------|---------|
| Block 1: All Metered Consumption | \$ 3.33 |
|----------------------------------|---------|

D. WHOLESALE VOLUME RATES

Rates Per
1,000 Gallons
2008 & Beyond

Block 1: Metered Consumption

Through 110% of AWC \$ 0.96

Block 2: Metered Consumption

Between 111% and 310%
of AWC and from Fire
Services \$ 5.08

Block 3: Metered Consumption

Above 310% of AWC. \$ 7.58

E. UNIFORM WHOLESALE VOLUME RATES

Rates Per
1,000 Gallons
2008 & Beyond

All Metered Consumption \$ 1.55

F. NON POTABLE VOLUME RATES

Rates Per

If a customer requests inspection and testing of a meter a testing fee shall be paid. If upon such examination and test conducted in the presence of the customer, or the customer's representative, the meter is found to be inaccurate according to the standards of the American Water Works Association, a meter will be substituted and the adjustment of the water bill for the preceding billing period shall include a credit for the testing fee.

Where water service is turned on and shut off in a period of less than one billing period, the billing shall be computed as if service was rendered for an entire billing period. Any customer desiring to discontinue water service temporarily must make request therefor at the office of the department not less than two working days prior to the date on which the service is desired to be discontinued. After the effective date of such discontinuance, all charges for such water and water service shall cease for the period during which the service shall be shut off; provided, that the period of such discontinuance shall not be less than thirty days.

A fee of thirteen (\$13.00) dollars shall be required for the disconnection of a lawn service when the customer of record requests disconnection without concurrently requesting disconnection of the associated service account at the service location. An additional fee of thirteen (\$13.00) dollars shall be required for the reconnection of the lawn service at the same location.

Charges and billing for special service, as defined herein, shall be determined by the Director of Water & Sewer. A fee of eleven dollars and fifty cents (\$11.50) shall be charged to all customers requesting service at a new service location."

VI. GOVERNMENT MILITARY FACILITIES LOCATED OUTSIDE THE CITY

Government military facilities located outside the City of Wichita shall be charged inside city rates for water service.

SECTION 2. The original of Section 17.12.090 is hereby repealed.

SECTION 3. This ordinance shall take effect and be in force on and after August 1,

2008, and upon publication once in the official City paper.

ADOPTED at Wichita, Kansas, this ____ day of _____, 2008.

Carl Brewer, Mayor

City of Wichita

ATTEST:

Karen Sublett,

City Clerk

Approved as to Form:

Gary E. Rebenstorf,

Director of Law

ORDINANCE NO. _____

AN ORDINANCE AMENDING SECTION 17.12.090 OF
THE CODE OF THE CITY OF WICHITA, KANSAS, PERTAINING TO
SCHEDULE OF RATES AND CHARGES FOR WATER SERVICE,
AND REPEALING THE ORIGINAL OF SAID SECTION.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF WICHITA,
KANSAS:

SECTION 1. Section 17.12.090 of the Code of the City of Wichita is hereby amended to read
as follows:

WATER RATES AND CHARGES. On and after ~~January 1, 2008~~, August 1, 2008, the
schedule of rates and charges as set forth below shall apply to all categories of water customers
with metered, flat rate or fire protection services:

I. MINIMUM WATER SERVICE CHARGES

Minimum water service charges per monthly billing period, based on water service
sizes, shall be assessed to all customers who have service availability at any time during a billing
period as shown below. An individual is deemed to have service available if the private water
service system, at the individual's residence or business, has been connected to the City of
Wichita's water system at any time during a billing period. The minimum charge is to be applied
regardless of whether or not any water volume passed from the City to private water systems
during a billing period. Water service connections deemed inactive by the Director of Water &
Sewer shall not be assessed minimum water service charges.

A. METERED WATER SERVICES

INSIDE CITY

MINIMUM MONTHLY

| <u>WATER METER SIZES</u> | <u>2008 & Beyond</u> |
|--------------------------|--------------------------|
| 5/8 inch | \$ 6.27 7.27 |
| 3/4 inch | 6.32 7.32 |
| 1 inch | 6.52 7.52 |
| 1 1/2 inch | 6.79 7.79 |
| 2 inch | 7.50 8.50 |
| 3 inch | 12.87 13.87 |
| 4 inch | 14.86 15.86 |
| 6 inch | 19.49 20.49 |
| 8 inch | 24.78 25.78 |
| 10 inch | 28.10 29.10 |
| 12 inch | 35.38 36.38 |

OUTSIDE CITY & WHOLESALE METERED WATER SERVICES

MINIMUM MONTHLY

| <u>WATER METER SIZES</u> | <u>2008 & Beyond</u> |
|--------------------------|---------------------------|
| 5/8 inch | \$ 10.02 11.63 |
| 3/4 inch | 10.11 11.71 |

| | |
|------------|------------------------|
| 1 inch | 10.44 12.03 |
| 1 1/2 inch | 10.87 12.46 |
| 2 inch | 11.99 13.60 |
| 3 inch | 20.59 22.19 |
| 4 inch | 23.77 25.38 |
| 6 inch | 31.18 32.78 |
| 8 inch | 39.64 41.25 |
| 10 inch | 44.97 46.56 |
| 12 inch | 56.62 58.21 |

B. FLAT RATE/UNMETERED MONTHLY CHARGES

2008 & Beyond

\$ ~~13.65~~ 14.65

C. FIRE PROTECTION MONTHLY CHARGES

INSIDE CITY

MINIMUM MONTHLY

WATER METER SIZES

2008 & Beyond

| | |
|------------|--------|
| 5/8 inch | \$.84 |
| 3/4 inch | .87 |
| 1 inch | .97 |
| 1 1/2 inch | 1.16 |
| 2 inch | 1.61 |

| | |
|---------|-------|
| 3 inch | 4.90 |
| 4 inch | 6.13 |
| 6 inch | 8.98 |
| 8 inch | 12.23 |
| 10 inch | 14.26 |
| 12 inch | 18.75 |

OUTSIDE CITY

MINIMUM MONTHLY

| <u>WATER METER SIZES</u> | <u>2008 & Beyond</u> |
|---------------------------------|---------------------------------|
| 5/8 inch | \$ 1.34 |
| 3/4 inch | 1.39 |
| 1 inch | 1.56 |
| 1 1/2 inch | 1.86 |
| 2 inch | 2.58 |
| 3 inch | 7.84 |
| 4 inch | 9.81 |
| 6 inch | 14.38 |
| 8 inch | 19.57 |
| 10 inch | 22.82 |
| 12 inch | 30.01 |

II. WATER VOLUME CHARGES

Charges for any volume of water passing from the City of Wichita water system to a

private water system shall be billed to the individual residing at the residence or business. Volume charges shall not apply to flat rate services which have been properly established with the Water & Sewer Department.

A. AVERAGE WINTER CONSUMPTION

Average winter consumption (AWC) shall be defined as the arithmetic mean monthly consumption computed by adding the metered consumption on bills rendered during the months of December, January, February, and March and then dividing this sum by the number of billings rendered during these same months. Each customer's AWC shall be recalculated in April of each year. Metered consumption charges for ensuing twelve months shall be computed utilizing the AWC as calculated each April, apportioning usage among the applicable rate blocks as designated below. In those instances where no consumption data exists for the calculation of an AWC for particular customers, the Director of Water & Sewer shall determine the most appropriate method of establishing average winter consumptions for such circumstances. The minimum monthly AWC for any metered service sized one (1) inch or less shall be 6,000 gallons. If a billing period of greater than one month (defined as days of service within twenty eight to thirty one days), is used, the actual or minimum AWC shall be adjusted accordingly on a daily basis.

B. RETAIL VOLUME CHARGES

INSIDE CITY

Rates Per

1,000 Gallons

2008 & Beyond

Block 1: Metered Consumption Through

110% of AWC

\$ 0.88

Block 2: Metered Consumption Between

111% and 310% of AWC and

from Fire Services

\$ 3.17

Block 3: Metered Consumption Above

310% of AWC

\$ 4.76

OUTSIDE CITY

Rates Per

1,000 Gallons

2008 & Beyond

Block 1: Metered Consumption Through

| | | |
|-------------|----|------|
| 110% of AWC | \$ | 1.41 |
|-------------|----|------|

Block 2: Metered Consumption Between

| | | |
|--------------------------|----|------|
| 111% and 310% of AWC and | | |
| from Fire Services | \$ | 5.07 |

Block 3: Metered Consumption Above

| | | |
|-------------|----|------|
| 310% of AWC | \$ | 7.62 |
|-------------|----|------|

C. RETAIL VOLUME CONSERVATION CONTRACT RATES

In order to obtain significant reductions in customers' annual water use, through more efficient use of Wichita's water resources, the Director of Water & Sewer is empowered to negotiate and execute contracts with retail customers which provide for a significant annual water savings by customers in return for charging all water use at the retail volume conservation contract rate. The Water & Sewer Director is further empowered to establish such rules and regulations in contract terms as may be necessary to most equitably carry out the intent of this section. Rules and regulations shall be promulgated based on the needs of the City of Wichita as demonstrated in its water conservation plan and programs to address the requirements of the State of Kansas. In all circumstances, customers seeking to qualify for the conservation contract rate must make written application to the Director of Water & Sewer, detailing methods to be employed to conserve water, the time frame for implementing such conservation methods and the expected annual water savings in gallons per year to be derived from implementing such conservation plans. Each January, customers who have entered into conservation contract rate agreements shall report the results of their conservation initiatives to the Director of Water & Sewer. If the Director of Water & Sewer determines that any customer did not meet the goal, then a billing will be rendered to the customer to reconcile charges for the proportion of the customer's prior year total annual consumption volume that did not qualify for the retail conservation contract rate as determined by the formula below:

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Customers exceeding their water conservation goals may use such excess savings in gallons as a credit toward the next year's water savings goal. This rate shall only be made available to customers who can demonstrate potential water savings that would be considered economically significant to the City of Wichita as determined by the Director of Water & Sewer.

INSIDE CITY CONSERVATION CONTRACT RATE

Rates Per

1,000 Gallons

2008 & Beyond

| | | |
|----------------------------------|----|------|
| Block 1: All Metered Consumption | \$ | 2.08 |
|----------------------------------|----|------|

OUTSIDE CITY CONSERVATION CONTRACT RATE

Rates Per

1,000 Gallons

2008 & Beyond

| | | |
|----------------------------------|----|------|
| Block 1: All Metered Consumption | \$ | 3.33 |
|----------------------------------|----|------|

D. WHOLESALE VOLUME RATES

Rates Per

1,000 Gallons

2008 & Beyond

Block 1: Metered Consumption

| | | |
|---------------------|----|------|
| Through 110% of AWC | \$ | 0.96 |
|---------------------|----|------|

Block 2: Metered Consumption

Between 111% and 310%
of AWC and from Fire
Services

| | | |
|--|----|------|
| | \$ | 5.08 |
|--|----|------|

Block 3: Metered Consumption

| | |
|--------------------|---------|
| Above 310% of AWC. | \$ 7.58 |
|--------------------|---------|

E. UNIFORM WHOLESALE VOLUME RATES

Rates Per

1,000 Gallons

2008 & Beyond

| | | | |
|-------------------------|----|-----------------|------|
| All Metered Consumption | \$ | 1.55 | 1.65 |
|-------------------------|----|-----------------|------|

F. NON POTABLE VOLUME RATES

Rates Per

| | |
|-------------------------|--------|
| All Metered Consumption | \$.65 |
|-------------------------|--------|

If a customer requests inspection and testing of a meter a testing fee shall be paid. If upon such examination and test conducted in the presence of the customer, or the customer's representative, the meter is found to be inaccurate according to the standards of the American Water Works Association, a meter will be substituted and the adjustment of the water bill for the preceding billing period shall include a credit for the testing fee.

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VI. GOVERNMENT MILITARY FACILITIES LOCATED OUTSIDE THE CITY

Government military facilities located outside the City of Wichita shall be charged inside city rates for water service.

SECTION 2. The original of Section 17.12.090 is hereby repealed.

SECTION 3. This ordinance shall take effect and be in force on and after January 1,

2008, and upon publication once in the official City paper.

ADOPTED at Wichita, Kansas, this ____ day of _____, 2007.

Carl Brewer, Mayor

City of Wichita

ATTEST:

Karen Sublett,

City Clerk

Approved as to Form:

Gary E. Rebenstorf,

Director of Law

Agenda Item 3

**City of Wichita
City Council Meeting
July 22, 2008**

TO: Mayor and City Council Members

SUBJECT: Public Exigency – Chapin Landfill Methane Gas (District III)

INITIATED BY: Department of Public Works

AGENDA: New Business

Recommendation: Declare the Public Exigency and approve the resulting expenditures.

Background: The Chapin Landfill operated from approximately 1954 until 1987, accepting municipal, commercial, and industrial solid waste generated primarily by the City of Wichita and its surrounding towns. The now closed landfill is located at 3800 S. Hydraulic, closely bordering the Lamplighter Mobile Home Park and Starlite Drive-In Theatre.

On June 25th, 2008, during a routine walking leak survey, Kansas Gas Service detected methane gas in the northwest corner of the adjacent mobile home park. Upon further investigation by Kansas Gas Service (KGS), the Kansas Corporation Commission (KCC), the Kansas Department of Health and Environment (KDHE), and the City of Wichita, Chapin Landfill was determined to be the source of the subsurface methane gas.

In the interest of public safety, the Public Works and Environmental Services departments immediately initiated precautionary measures and remediation efforts. Those efforts are ongoing and focused on mitigating any immediate risk to health and property, while developing a viable, permanent remediation system.

Analysis: Actions immediately initiated in response to the exigent circumstances included the procurement of various services provided by Duling Construction, Brian Fisher, Cornejo & Sons, Shelly Electric, Geotechnical Services, Inc., Burns & McDonnell, Westar Energy, D&D Equipment. The services provided ranged from the testing for and collection of gas concentration data, to the excavation of a passive soil venting trench and the installation of soil vapor extraction wells, and were instrumental in expediting the safest possible condition.

A permanent active or passive venting system at this location will be required by KDHE and is being designed by Burns and McDonald. The cost of constructing this system will be brought back to Council for authorization at a later date.

Financial Considerations: The estimated cost of dealing with this public exigency should not exceed \$500,000, and will be paid for from the Landfill Post Closure budget.

Legal Considerations: The initial action was undertaken properly under Code Section 2.64.020 as an emergency and a public exigency.

Goal Impact: These expenditures support the Safe and Secure Communities Goal by ensuring the continued safety of the citizenry.

Recommendation/Action: It is recommended that the City Council declare the public exigency and authorize payment of the resulting bills in an amount not to exceed \$500,000 from the Landfill Post Closure Budget.

Attachments: None



**INTEROFFICE
MEMORANDUM**

TO: MAPC Members
FROM: Antione Sherfield, Neighborhood Assistant, District II
SUBJECT: CUP2008-15/ZON2008-21:
DATE: July 7, 2008

On Monday, June 16, 2008, the District II Advisory Board considered a proposal for creation of DP-313 Parker Addition CUP, a City Community Unit plan (associated with ZON2008-00021), generally located on the Northwest and Southwest corner of Central Avenue and 127th Street East. The applicant proposes to create a commercial community unit plan ("CUP") containing 29.5 acres with nine parcels located on the northwest and southeast corners of the intersection of Central Avenue and 127th Street East and running parallel to K-96. Ten acres (10.1) of the CUP is zoned "LC" Limited Commercial and the applicant has requested to rezone the balance of the CUP (19.4 acres) from SF-5 Single-family Residential to LC. Parcels 1-7 would comprise the property to the northwest of the intersection, except for the 0.8 acre corner tract that is under separate ownership and already developed as a convenience store with gas islands and a single-bay car wash. Parcels 8 and 9 would comprise the property bordered by Central Avenue, K-96, the south I-135 ramp and 127th Street East.

All parcels except Parcel 2 would allow uses permitted by right in the LC district. Parcel 2, located on the western edge of the CUP along Central adjacent to Crestlake Addition, would be restricted to NR Neighborhood Retail ("NR") uses. Uses prohibited on the entire CUP are: cemetery, correctional placement residences, taverns, nightclubs, drinking establishments or adult entertainment establishments (sexually oriented businesses). Additional prohibitions are on auto-oriented uses (service stations, convenience stores with gas islands, restaurants with drive-in or drive through facilities and vehicle repair) within 200 feet of residential zoning, overhead doors facing residential districts, and screening of these types of trash, mechanical equipment, loading docks and service areas.

The CUP provides architectural standards, consistent design of lighting elements and height limitation of 20 feet, landscape palette consistency and more stringent planting ratios, avoidance of neon and florescent lighting on buildings. A standard masonry wall is required on the north and west property lines of Parcels 1, 2 and 7. Additional signage and lighting provisions are suggested to protect the adjacent residential development under construction from the commercial uses.

Kevin Jones, 13109 Ridgfield Place, stated that he was not opposed to the potential CUP but doesn't want his neighborhood to look like 21st Street and Webb Road with commercial

businesses on every corner. **Daryl Crotts, DAB Member**, asked if additional screening or a row of trees would be helpful. Kevin Jones stated that that would be nice. **Bill Longnecker**, asked **Tim Austin, Agent** if it would be possible for the applicant to provide landscaping to assist with screening. Tim Austin stated that this would not be a problem.

Recommended Action: **Daryl Crotts**, DAB Member made motion to accept the recommendation of Staff based on emphasis on additional landscaping. **DAB** voted **(10-0)** in favor of Staff's recommendation with emphasis on additional landscaping.

Antione Sherfield
Neighborhood Assistant
District II

EXCERPT OF MINUTES {JUNE 19, 2008}

1. **Case No.: ZON2008-21 and CUP2008-15** - Todd Parker (owner); Poe and Associates, Incl., c/o Tim Austin (agent), Christian Ablah (agent) Request Creation of DP-313 Parker Addition Community Unit Plan and City zone change from "SF-5" Single-family Residential to "LC" Limited Commercial on property described as:

The Southeast Quarter EXCEPT the North 1643 feet and EXCEPT West 1645 feet and EXCEPT part beginning 75 feet West of the Southeast corner of the Southeast Quarter; thence North 175 feet of the West 200 feet of the South 178.75 feet; thence Northeasterly 25.28 feet; thence East 175 feet to beg & EXCEPT East 50 feet & South 50 feet for Roads & EXCEPT 4.67 acres for Highway, Section 15, Township 27, Range 2 East of the 6th P.M., Sedgwick County, Kansas.

AND

That part of the Northwest Quarter of the Northwest Quarter lying north and West of K-96 Highway, EXCEPT Roads, Section 23, Township 27, Range 2 East of the 6th P.M. Sedgwick County, Kansas. Generally located on the northwest corner and southeast corner of Central Avenue and 127th Street East.

BACKGROUND: The applicant proposes to create a commercial community unit plan ("CUP") containing 29.5 acres with nine parcels located on the northwest and southeast corners of the intersection of Central Avenue and 127th Street East and running parallel to K-96. Ten acres (10.1) of the CUP is zoned "LC" Limited Commercial and the applicant has requested to rezone the balance of the CUP (19.4 acres) from SF-5 Single-family Residential to LC. Parcels 1-7 would comprise the property to the northwest of the intersection, except for the 0.8 acre corner tract that is under separate ownership and already developed as a convenience store with gas islands and a single-bay car wash. Parcels 8 and 9 would comprise the property bordered by Central Avenue, K-96, the south I-135 ramp and 127th Street East.

All parcels except Parcel 2 would allow uses permitted by right in the LC district. Parcel 2, located on the western edge of the CUP along Central adjacent to Crestlake Addition, would be restricted to NR Neighborhood Retail ("NR") uses. Uses prohibited on the entire CUP are: cemetery, correctional placement residences, taverns, nightclubs, drinking establishments or adult entertainment establishments (sexually oriented businesses). Additional prohibitions are on auto-oriented uses (service stations, convenience stores with gas islands, restaurants with drive-in or drive through facilities and vehicle repair) within 200 feet of residential zoning, overhead doors facing residential districts, and screening of these types of trash, mechanical equipment, loading docks and service areas.

The CUP provides architectural standards, consistent design of lighting elements and height limitation of 20 feet, landscape palette consistency and more stringent planting ratios, avoidance of neon and florescent lighting on buildings. A standard masonry wall is required on the north and west property lines of Parcels 1, 2 and 7. Additional signage and lighting provisions are suggested to protect the adjacent residential development under construction from the commercial uses.

Perimeter setbacks are 35 feet. However, the CUP proposes reducing the front setback to 20 feet if the area between the right-of-way line and the street wall line (defined as a line extending from the front building façade) is limited to landscaped area only. Only one drive aisle (defined as a two way drive aisle with parking spaces on one or two edges, which is a paved area of approximately 60 feet for two lines of parking and 42 feet for one line of parking spaces).

Pedestrian connectivity and internal site circulation and cross circulation are required. Maximum building coverage would be 30 percent; maximum gross floor area would be 35 percent of total land area,

and maximum building height would be 35 feet. The requested number of buildings is large, being ten for Parcel 9, eight for Parcels 1 and 8, five for Parcels 5, 6 and 7, and three for Parcels 2, 3 and 4.

The CUP proposes a sign plan consisting of a more limited number of sign locations, and specifies the maximum sizes permitted. Continuous movement signs are prohibited, temporary banners/pennants are allowed per specific guidelines. Building wall signage is limited to use of individual letters, with three feet height of letters for Parcel 1 and two feet for other parcels, and otherwise would seem to be per Wichita Sign Code.

The property is vacant. The tract excluded from the CUP on the northwest corner of Central Avenue and 127th Street East has a convenience store with gas islands and a single-bay car wash on property zoned LC. The property on the southwest corner of Central and 127th is zoned LC and has a strip commercial building with retail/personal service types of uses and a bank, but over half of this CUP (DP-247) is undeveloped. A warehouse, self-service storage facility and a vacant tract is located on the next property to the west of DP-247. The land to the north and west of Parcels 1, 2 and 7 is zoned SF-5 and is being developed in single-family residences in Crestlake Subdivision and Preston Trails. The property to the west of Parcel 8 along 127th Street East is held in large residential lots. The property to the south of Parcel 9 is vacant land with OW Office Warehouse (“OW”) zoning and is part of DP-248. The KTA southbound ramp forms the southern boundary of Parcel 9. K-96 borders the property on the east. The land east of K-96 is zoned SF-5 and consists of single-family development in Bridgefield Subdivision and Crestview, an assisted living facility and a church.

CASE HISTORY: The property is not platted. DP-255 KTP Center Addition Community Unit Plan (CUP2001-00005) and an associated zone change to LC and GO General Office (“GO”) (ZON2001-00009), was approved in 2001 for a larger tract of 51 acres, but which included the northwest 12 acres in Parcels 1-7 of this request. This case was denied and closed for failure to plat.

ADJACENT ZONING AND LAND USE:

| | | |
|--------|--------|--|
| NORTH: | SF-5, | Single-family residential, assisted living, church |
| EAST: | SF-5 | Single-family residential |
| SOUTH: | LC, OW | Commercial strip center (retail/personal services, bank, warehouse, self-service storage, vacant |
| WEST: | SF-5 | Single-family residential |

PUBLIC SERVICES: Central Avenue is classified as a minor arterial street and constructed as a four-lane arterial with a center turn lane from Garnett Street, which is located one block west 127th Street East, and continuing past the bridge over K-96. Traffic counts on 127th in 2007 were 11,000 vehicles per day (ADTs). 127th Street East is classified as a minor arterial street. North of Central, it is constructed as a four-lane arterial with a center turn lane, and had traffic counts of 4,875 ADTs in 2007. South of Central, it is constructed as a two-lane arterial with a center turn lane, and had traffic counts of 3,738 in 2007. The KTA ramp is a divided four lane entrance/exit to the Turnpike and K-96. K-96 is classified and constructed as a four-lane limited access freeway.

The state has complete access control along the KTA ramp bordering the south boundary of Parcel 9. It is recommended that the drive alignment between Parcel 2 and Parcel 3 be shifted to align with Garnett Street, that drive openings shall be aligned with existing drives on 127th Retail Addition and that the remaining frontage shall be platted per Access Management Policy.

Other normal public services are available.

CONFORMANCE TO PLANS/POLICIES: The “2030 Wichita Functional Land Use Guide, Map as amended May 2005” of the *1999 Update to the Wichita-Sedgwick County Comprehensive Plan* identifies this area as appropriate for “local commercial.” This CUP would be in conformance with this guideline.

In terms of conformance with commercial goals/objectives/strategies and locational guidelines, it partially conforms to **Commercial Goal/Objective B** of “Develop future retail/commercial areas which complement existing commercial activities, provide convenient access to the public and minimize detrimental impacts to other adjacent land uses.” It conforms to **Strategy III.B1** of locating local commercial development (neighborhood centers) in areas shown on the Land Use Guide at the intersection of two arterial streets and it is within the area shown for urban expansion. The CUP incorporates provisions conforming to **Strategy III.B.2** of integrating out parcels to planned centers through shared internal circulation, similar landscaping and building materials, and combined ingress/egress. **Strategy III.B.3** seeks to reduce access points along arterial streets; which would be accomplished through alignment of the drive with Garnett Street and following access management for the other access points. **Commercial Locational Guideline #1** of the *Comprehensive Plan* recommends that commercial sites should be located adjacent to arterial streets. The proposed development complies with this guideline. **Commercial Locational Guideline #3** recommends site design features that limit noise, lighting and other aspects that may adversely affect residential use, and **#4** recommends compact clusters versus extended strip development. The proposed CUP incorporates provisions related to architectural, landscape, signage, lighting, screening and other features to comply with this guideline.

RECOMMENDATION: Based on these factors, plus the information available prior to the public hearing, staff recommends the request be APPROVED subject to platting within one year and subject to the following conditions:

- A. APPROVE the zone change (ZON2008-00021) to LC for the property zoned SF-5 subject to platting within one year.
- B. APPROVE the Community Unit Plan (DP-313), subject to the following conditions:
 1. Revise General Provision #4 to state: “Signage will be permitted as allowed by the Sign Code, City Code Title 24.04, with the following additional conditions/ limitations.”
 2. Revise General Provision #4A to prohibit off-site signs and billboards.
 3. Clarify that General Provision #4C to state: “Each parcel shall be permitted monument style ground signage as indicated in the Sign Schedule. Please refer to ‘Legend: Proposed Monument Sign’ schedule on this document.”
 4. Limit the height of monument sign on Parcel 2 to 15 feet.
 5. Add to General Provision #4F: “Prohibit building wall signs facing residential on Parcels 1-7.”
 6. Revise General Provision #13 to limit height of lighting to 15 feet within 100 feet of residential zoning.
 7. Revise General Provision #23 to require construction of the masonry wall when any portion(s) of Parcels 1, 2 and/or 7 are developed.
 8. Provide guarantees for left turn center lanes and right turn decel lanes to all full movement approaches at time of platting.
 9. It is recommended that the drive alignment between Parcel 2 and Parcel 3 be shifted to align with Garnett Street, that drive openings shall be aligned with existing drives on 127th Retail Addition and that the remaining frontage shall be platted per Access Management Policy.
 10. Any major changes in this development plan shall be submitted to the Planning Commission and to the Governing Body for their consideration.
 11. The transfer of title of all or any portion of the land included within the Community Unit Plan does not constitute a termination of the plan or any portion thereof, but said plan shall run with the land for commercial development and be binding upon the present owners, their successors and assigns, unless amended.
 12. The ordinance/resolution establishing the zone change shall not be published until the platting has been recorded with the Register of Deeds.
 13. Prior to publishing the ordinance/resolution establishing the zone change, the applicant(s) shall record a document with the Register of Deeds indicating that this tract (referenced as DP-313) includes special conditions for development on this property.

14. The applicant shall submit four revised copies of the CUP to the Metropolitan Area Planning Department within 60 days after approval of this case by the Governing Body, or the request shall be considered denied and closed.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The property is vacant. The tract excluded from the CUP on the northwest corner of Central Avenue and 127th Street East has a convenience store with gas islands and a single-bay car wash on property zoned LC. The property on the southwest corner of Central and 127th is zoned LC and has a strip commercial building with retail/personal service types of uses and a bank, but over half of this CUP (DP-247) is undeveloped. A warehouse, self-service storage facility and a vacant tract is located on the next property to the west of DP-247. The land to the north and west of Parcels 1, 2 and 7 is zoned SF-5 and is being developed in single-family residences in Crestlake Subdivision and Preston Trails. The property to the west of Parcel 8 along 127th Street East is held in large residential lots. The property to the south of Parcel 9 is vacant land with OW Office Warehouse (“OW”) zoning and is part of DP-248. The KTA southbound ramp forms the southern boundary of Parcel 9. K-96 borders the property on the east. The land east of K-96 is zoned SF-5 and consists of a single-family development in Bridgefield Subdivision and Crestview Subdivision, an assisted living facility and a church.
2. The suitability of the subject property for the uses to which it has been restricted: The current zoning, SF-5 and LC, is suited for development although the presence of commercial use to the south of Parcels 1-4 may deter the viability of residential uses.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: The CUP provisions should diminish the detrimental effects of the development on nearby residential property.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and Policies: The “2030 Wichita Functional Land Use Guide, Map as amended May 2005” of the *1999 Update to the Wichita-Sedgwick County Comprehensive Plan* identifies this area as appropriate for “local commercial.” This CUP would be in conformance with this guideline. In terms of conformance with commercial goals/objectives/strategies and locational guidelines, it partially conforms to **Commercial Goal/Objective B** of “Develop future retail/commercial areas which complement existing commercial activities, provide convenient access to the public and minimize detrimental impacts to other adjacent land uses.” It conforms to **Strategy III.B.1** of locating local commercial development (neighborhood centers) in areas shown on the Land Use Guide at the intersection of two arterial streets and it is within the area shown for urban expansion. The CUP incorporates provisions conforming to **Strategy III.B.2** of integrating out parcels to planned centers through shared internal circulation, similar landscaping and building materials, and combined ingress/egress. **Strategy III.B.3** seeks to reduce access points along arterial streets; which would be accomplished through alignment of the drive with Garnett Street and following access management for the other access points. **Commercial Locational Guideline #1** of the *Comprehensive Plan* recommends that commercial sites should be located adjacent to arterial streets. The proposed development complies with this guideline. **Commercial Locational Guideline #3** recommends site design features that limit noise, lighting and other aspects that may adversely affect residential use, and **#4** recommends compact clusters versus extended strip development. The proposed CUP incorporates provisions related to architectural, landscape, signage, lighting, screening and other features to comply with this guideline.
5. Impact of the proposed development on community facilities: The development will add traffic to

the arterial streets, but the improvements on Central are adequate. If significant activity occurs on 127th, the street may need expansion. Other municipal services are available.

DONNA GOLTRY Planning staff presented staff report. DAB II voted to approve this request, but heard concerns from a community member who lived across the street to the east concerning lighting, building signage and similar impacts. I've spoken to the agent about the DAB recommendation. Apparently, although the DAB recommended in favor, they asked that we look at ways to mitigate the impact. The suggestion I have been given by the agent was that they would offer to plant trees for a landscaping type buffer at a rate of one tree per 50 feet along that K-96 buffer. I would point out you that, from the stand point that landscaping, normally the buffer will accrue naturally along a freeway, but it actually wouldn't here because the site is not at grade with K-96.

MILLER-STEVENS Asked Donna if she could point out where the nearby residential is located.

GOLTRY Preston Trails and Crest Lake Addition, which is under development, is nearest the property where they have asked for LC zoning.

TIM AUSTIN, POE & ASSOCIATES, Agent for the applicant stated the applicant was in agreement with staff comments.

KEVIN JONES, 13109 E. BRIDEFIELD PLACE As mention earlier, I spoke to the other day to DAB II. And, I have spoken to a number of neighbors. Our property backs up to K-96 and K-96 is depressed there. We have a great view of this property, particularly Parcels 8 and 9. In theory we really don't have a problem with this application. Our only concern is Item #28 on the CUP, where it talks about the 200-foot setback from residential areas for limiting those types of businesses. We're a little more than 200 feet; we're about three times that. The agent has been very responsive about adding screening. Some of us have screening in our back yard, it's great in the summer but the screening goes away in the winter time. We also have 6-foot walls. Most of our houses are built on an elevation and extend in height above that wall. So we have a great view of that property. Our biggest concern will be convenient store, gas station type of business on those two plats. We'd like to see that part of CUP changed, other than that we have no objections.

MITCHELL Asked **AUSTIN** if he would answer the question about screening.

AUSTIN I didn't think there was a question with screening. There's no landscape requirement along with K-96. After the meeting the other night and consultation with Donna we added a landscape buffer requirement where none was required before, I feel like we've already answered that question.

MITCHELL You think you have satisfied his concern.

AUSTIN Yes.

MOTION: To approve.

MARNELL moved, **HENTZEN** seconded the motion, and it carried (13-0).

FOSTER Would the motion include the additional buffering recommended by staff?

MARNELL Asked **GOLTRY** is that was separate from the staff report.

GOLTRY Stated it would need to be added.

MARNELL Yes it would be added.

ORDINANCE NO. _____

AN ORDINANCE CHANGING THE ZONING CLASSIFICATIONS OR DISTRICTS OF CERTAIN LANDS LOCATED IN THE CITY OF WICHITA, KANSAS, UNDER THE AUTHORITY GRANTED BY THE WICHITA-SEDGWICK COUNTY UNIFIED ZONING CODE, SECTION V-C, AS ADOPTED BY SECTION 28.04.010, AS AMENDED.

**BE IT ORDAINED BY THE GOVERNING BODY
OF THE CITY OF WICHITA, KANSAS.**

SECTION 1. That having received a recommendation from the Planning Commission, and proper notice having been given and hearing held as provided by law and under authority and subject to the provisions of The Wichita-Sedgwick County Unified Zoning Code, Section V-C, as adopted by Section 28.04.010, as amended, the zoning classification or districts of the lands legally described hereby are changed as follows:

Case No. ZON2008-21

Zone change request from SF-5 Single-family Residential to LC Limited Commercial on property described as:

The Southeast Quarter EXCEPT the North 1643 feet and EXCEPT West 1645 feet and EXCEPT part beginning 75 feet West of the Southeast corner of the Southeast Quarter; thence North 175 feet of the West 200 feet of the South 178.75 feet; thence Northeasterly 25.28 feet; thence East 175 feet to beg & EXCEPT East 50 feet & South 50 feet for Roads & EXCEPT 4.67 acres for Highway, Section 15, Township 27, Range 2 East of the 6th P.M., Sedgwick County, Kansas.

AND

That part of the Northwest Quarter of the Northwest Quarter lying North and West of K-96 Highway, EXCEPT Roads, Section 23, Township 27, Range 2 East of the 6th P.M. Sedgwick County, Kansas, generally located on the northwest corner and southeast corner of Central Avenue and 127th Street East.

SECTION 2. That upon the taking effect of this Ordinance, the above zoning changes shall be entered and shown on the "Official Zoning Map" previously adopted by reference, and said official zoning map is hereby reincorporated as a part of the Wichita-Sedgwick County Unified Zoning Code as amended.

SECTION 3. That this Ordinance shall take effect and be in force from and after its adoption and publication in the official City paper.

ADOPTED this _____ day of _____, 200__.

ATTEST:

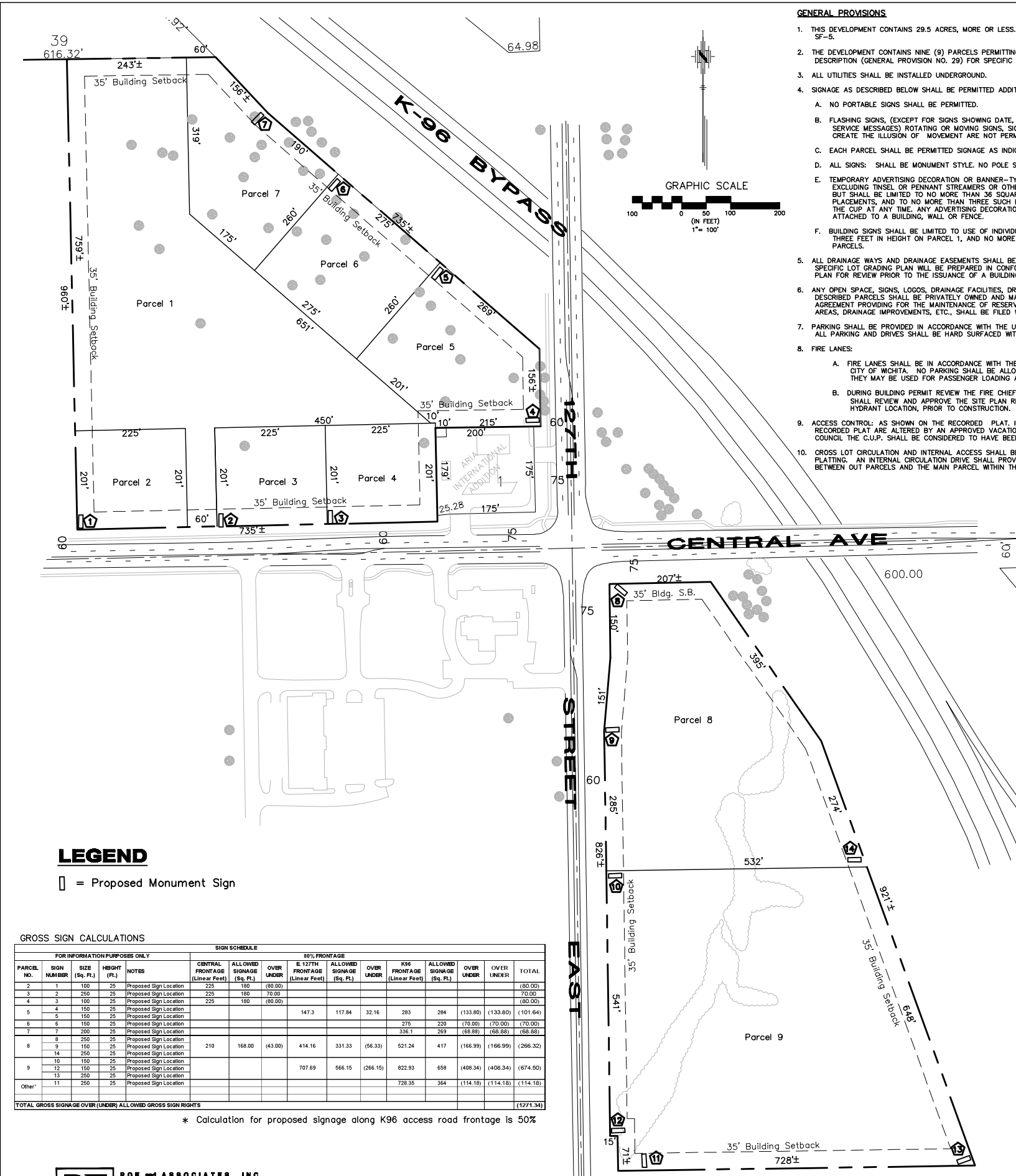
Karen Sublett, City Clerk

Carl Brewer, Mayor

(SEAL)

Approved as to form:

Gary E. Rebenstorf, Director of Law



GENERAL PROVISIONS

- THIS DEVELOPMENT CONTAINS 29.5 ACRES, MORE OR LESS. 10.1 ACRES ZONED "LC", 19.4 ACRES ZONED SF-5.
- THE DEVELOPMENT CONTAINS NINE (9) PARCELS PERMITTING LIMITED COMMERCIAL USES. SEE PARCEL DESCRIPTION (GENERAL PROVISION NO. 29) FOR SPECIFIC USES.
- ALL UTILITIES SHALL BE INSTALLED UNDERGROUND.
- SIGNAGE AS DESCRIBED BELOW SHALL BE PERMITTED ADDITIONALLY THE FOLLOWING CONDITIONS APPLY:
 - NO PORTABLE SIGNS SHALL BE PERMITTED.
 - FLASHING SIGNS, (EXCEPT FOR SIGNS SHOWING DATE, TIME, TEMPERATURE, AND OTHER PUBLIC SERVICE MESSAGES) ROTATING OR MOVING SIGNS, SIGNS WITH MOVING LIGHTS, OR SIGNS WHICH CREATE THE ILLUSION OF MOVEMENT ARE NOT PERMITTED.
 - EACH PARCEL SHALL BE PERMITTED SIGNAGE AS INDICATED IN THE SIGN SCHEDULE ON SHEET 1
 - ALL SIGNS: SHALL BE MONUMENT STYLE. NO POLE SIGNS SHALL BE PERMITTED.
 - TEMPORARY ADVERTISING DECORATION OR BANNER-TYPE SIGNS AS ALLOWED BY THE SIGN CODE, EXCLUDING TINSEL OR PENNANT STREAMERS OR OTHER SIMILAR DECORATION, SHALL BE PERMITTED, BUT SHALL BE LIMITED TO NO MORE THAN 36 SQUARE FEET IN SIZE, TO NO MORE THAN 15 DAY PLACEMENTS, AND TO NO MORE THAN THREE SUCH BANNER OR ADVERTISING DECORATION SIGNS IN THE CUP AT ANY TIME. ANY ADVERTISING DECORATION OR BANNER SIGNS SHALL BE SECURELY ATTACHED TO A BUILDING, WALL OR FENCE.
 - BUILDING SIGNS SHALL BE LIMITED TO USE OF INDIVIDUAL LETTERS THAT AVERAGE NO MORE THAN THREE FEET IN HEIGHT ON PARCEL 1, AND NO MORE THAN TWO FEET IN HEIGHT ON ALL OTHER PARCELS.
- ALL DRAINAGE WAYS AND DRAINAGE EASEMENTS SHALL BE CONFIRMED AT THE TIME OF PLATTING. A SPECIFIC LOT GRADING PLAN WILL BE PREPARED IN CONFORMANCE WITH THE GENERAL DRAINAGE CONCEPT PLAN FOR REVIEW PRIOR TO THE ISSUANCE OF A BUILDING PERMIT.
- ANY OPEN SPACE, SIGNS, LOGOS, DRAINAGE FACILITIES, DRIVES OR PARKING AREAS CONTAINED WITHIN THE DESCRIBED PARCELS SHALL BE PRIVATELY OWNED AND MAINTAINED. IF MULTIPLE OWNERSHIP OCCURS AN AGREEMENT PROVIDING FOR THE MAINTENANCE OF RESERVES, OPEN SPACE, INTERNAL DRIVES, PARKING AREAS, DRAINAGE IMPROVEMENTS, ETC., SHALL BE FILED WITH THE PLAT.
- PARKING SHALL BE PROVIDED IN ACCORDANCE WITH THE UNIFIED ZONING CODE OF THE CITY OF WICHITA. ALL PARKING AND DRIVES SHALL BE HARD SURFACED WITH CONCRETE OR ASPHALT.
- FIRE LANES:
 - FIRE LANES SHALL BE IN ACCORDANCE WITH THE APPROPRIATE FIRE CODE OF THE CITY OF WICHITA. NO PARKING SHALL BE ALLOWED IN SAID FIRE LANES, ALTHOUGH THEY MAY BE USED FOR PASSENGER LOADING AND UNLOADING.
 - DURING BUILDING PERMIT REVIEW THE FIRE CHIEF OR HIS DESIGNATED REPRESENTATIVE SHALL REVIEW AND APPROVE THE SITE PLAN REGARDING FIRE LANE(S) AND FIRE HYDRANT LOCATION, PRIOR TO CONSTRUCTION.
- ACCESS CONTROL: AS SHOWN ON THE RECORDED PLAT, IF THE ACCESS CONTROLS OF THE RECORDED PLAT ARE ALTERED BY AN APPROVED VACATION ORDER OF THE WICHITA CITY COUNCIL THE C.U.P. SHALL BE CONSIDERED TO HAVE BEEN ADJUSTED ACCORDINGLY.
- GROSS LOT CIRCULATION AND INTERNAL ACCESS SHALL BE PROVIDED AT THE TIME OF PLATTING. AN INTERNAL CIRCULATION DRIVE SHALL PROVIDE CROSS-LOT ACCESS ALONG THE LINE BETWEEN OUT PARCELS AND THE MAIN PARCEL WITHIN THE CUP.
- THE TRANSFER OF TITLE ON ALL OR ANY PORTION OF THE LAND INCLUDED IN THE C.U.P. DOES NOT CONSTITUTE A TERMINATION OF THE PLAN OR ANY PORTION THEREOF, BUT SAID PLAN SHALL RUN WITH THE LAND AND BE BINDING UPON THE PRESENT OWNERS, THEIR SUCCESSORS AND ASSIGNS AND THEIR LESSEES UNLESS AMENDED. ANY MAJOR CHANGES IN THIS DEVELOPMENT PLAN SHALL BE SUBMITTED TO THE PLANNING COMMISSION FOR ITS CONSIDERATION.
- NO DEVELOPMENT OF THE CUP SHALL OCCUR UNTIL MUNICIPAL WATER AND SEWER SERVICES HAVE BEEN EXTENDED TO SERVE THE SITE.
- ALL LIGHTS SHALL BE SHIELDED TO REFLECT LIGHT DOWNWARD OR DIRECT LIGHT AWAY FROM RESIDENTIAL AREAS. LIGHT POLES ON PARCELS SHALL BE LIMITED TO 20 FEET IN HEIGHT. ALL PARKING LOT LIGHTING WITHIN THE CUP SHALL SHARE CONSISTENT DESIGN (I.E. FIXTURES, POLES, LAMP BASES).
- TRASH RECEPTACLES SHALL BE APPROPRIATELY SCREENED TO REASONABLY HIDE THEM FROM GROUND VIEW. SCREENING SHALL BE CONSTRUCTED OF MATERIALS AND/OR LANDSCAPING COMPATIBLE WITH AND COMPLEMENTARY TO THE EXTERIOR OF THE BUILDINGS TO WHICH THE TRASH RECEPTACLE PROVIDES SERVICE. LOADING DOCKS AND SERVICE AREAS SHALL ALSO BE SCREENED FROM CENTRAL AVE, 127TH EAST, AND SURROUNDING RESIDENTIAL AREAS WITH SCREENING WALLS AND/OR LANDSCAPING APPROVED BY THE PLANNING DIRECTOR.
- ON ALL PARCELS ROOF-TOP EQUIPMENT SHALL BE SCREENED FROM GROUND LEVEL VIEW FROM ADJACENT RESIDENTIAL AREAS; NO ROOF-TOP FENCING ALLOWED.
- DEVELOPMENT OF ALL PARCELS WITHIN THE CUP SHALL COMPLY WITH THE LANDSCAPE ORDINANCE OF THE CITY OF WICHITA. A LANDSCAPE PLAN SHALL BE PREPARED BY A STATE OF KANSAS REGISTERED LANDSCAPE ARCHITECT FOR THE REQUIRED LANDSCAPING, INDICATING THE TYPE, LOCATION AND SPECIFICATION OF ALL PLANT MATERIAL. THIS PLAN SHALL BE SUBMITTED TO THE PLANNING DEPARTMENT FOR THEIR REVIEW AND APPROVAL PRIOR TO ISSUANCE OF A BUILDING PERMIT.
- REQUIREMENTS FOR LANDSCAPED STREET YARD AND BUFFER STRIP TREES SHALL BE CALCULATED AT 1.5 TIMES THE MINIMUM ORDINANCE REQUIREMENTS. REQUIREMENTS FOR PARKING LOT LANDSCAPING SHALL COMPLY WITH THE LANDSCAPE ORDINANCE. FOR PARCEL 1, PARKING LOT LANDSCAPING SHALL BE PROVIDED AT A RATE OF 1 TREE FOR EVERY 20 PARKING SPACES.
- A FINANCIAL GUARANTEE FOR THE PLANT MATERIAL APPROVED ON THE LANDSCAPE PLAN FOR THAT PORTION OF THE CUP BEING DEVELOPED SHALL BE REQUIRED PRIOR TO ISSUANCE OF ANY OCCUPANCY PERMIT, IF THE REQUIRED LANDSCAPING HAS NOT BEEN PLANTED.
- ALL PARCELS IN THE CUP SHALL SHARE A SIMILAR OR COMPATIBLE PLANT PALETTE, AS DETERMINED BY THE REGISTERED LANDSCAPE ARCHITECT PREPARING REQUIRED PLAN.
- ALL BUILDINGS SHALL HAVE CONSISTENT EXTERIOR BUILDING MATERIALS WITH CONSISTENT ARCHITECTURAL CHARACTER, FORM, COLOR AND TEXTURE. BUILDING WALLS SHALL BE BROKEN UP BY PROJECTIONS, RECESSES, CHANGES IN ROOF LINE, AND CHANGES IN COLORS, TEXTURES AND/OR MATERIALS, RELATING TO INTERIOR BUILDING FUNCTIONS WHERE FEASIBLE. BUILDINGS SHOULD HAVE A RECOGNIZABLE "BASE" AND "TOP". PREFABRICATED METAL PANELS SHALL NOT BE PERMITTED ON THE SIDE OF BUILDINGS FACING LOT 127TH STREET AND SHALL NOT BE THE PREDOMINANT WALL MATERIAL ON ANY OTHER SIDE OF THE BUILDING. NO BUILDING PERMITS SHALL BE ISSUED UNTIL SITE ELEVATIONS ARE APPROVED BY THE PLANNING DIRECTOR.
- BUILDINGS IN PARCELS ALONG THE ARTERIAL STREETS SHOULD BE SITED WITH A PRIMARY BUILDING FACADE ALONG THE STREET AND NO MORE THAN ONE DRIVING AISLE. MINIMUM SETBACK ALONG ARTERIAL STREETS MAY BE REDUCED TO A MINIMUM OF 20 FEET IF THE FRONT YARD AREA IS LANDSCAPED. A MINIMUM PERCENT OF THE BUILDING FRONTAGE FACING THE ARTERIAL STREETS MUST HAVE WINDOWS OR DOOR OPENINGS.
- GAS ISLANDS, ATM's, BANK DRIVE-THROUGH WINDOWS, OVERHEAD DOORS AND SIMILAR UTILITARIAN ITEMS SHALL BE SCREENED OR SITED BEHIND BUILDINGS TO MINIMIZE THEIR VIEW FROM THE STREET.
- A SIX (6) FOOT HIGH MASONRY WALL SHALL BE CONSTRUCTED ALONG THE WESTERN LINE OF PARCELS 1 AND 2 AND THE NORTH LINE OF PARCELS 3 AND 4 IN THE EVENT THAT PROPERTY TO THE NORTH, SOUTH AND EAST OF THE CUP IS DEVELOPED WITH RESIDENTIAL USES. NO UTILITIES SHALL BE PLACED WITHIN THE 5 FOOT WALL EASEMENT.
- EXTENSIVE USE OF BACKLIT CANOPIES AND NEON OR FLUORESCENT TUBE LIGHTING ON BUILDINGS IS NOT PERMITTED.
- THIS C.U.P. DOCUMENT IS GENERAL IN CHARACTER AND WILL REQUIRE THE SUBMISSION OF A SITE PLAN AND A LANDSCAPE PLAN FOR EACH PARCEL OR PORTION THEREOF. THIS SITE PLAN WILL REQUIRE ADMINISTRATIVE APPROVAL AT THE PLAN REVIEW STAGE PRIOR TO ISSUANCE OF A BUILDING PERMIT. THE SITE PLAN SHALL SHOW ACCESS POINTS AND/OR CONTROL SETBACKS, INTERIOR CIRCULATION, PARKING, SCREENING AND OTHER SIMILAR DESIGN CONSIDERATIONS.
- PRIOR TO ISSUING BUILDING PERMITS FOR EACH PARCEL OR PORTION THEREOF, A PLAN FOR VEHICULAR CIRCULATION AND A PEDESTRIAN WALK SYSTEM SHALL BE SUBMITTED AND APPROVED BY THE DIRECTOR OF PLANNING. THE PLAN SHALL LINK SIDEWALKS ALONG CENTRAL AVE. AND/OR 127TH STREET EAST WITH THE MAJOR ENTRANCES TO THE DEVELOPMENT, AND SHALL LINK WITH THE PROPOSED BUILDINGS WITHIN THE DEVELOPMENT AND FUTURE ADJACENT RESIDENTIAL DEVELOPMENT. THE SITE PEDESTRIAN CIRCULATION SYSTEM, WHICH MAY BE CONSTRUCTED INCREMENTALLY, SHALL BE APPROVED BY THE PLANNING DIRECTOR. WALKWAYS ACROSS PARKING LOTS SHALL BE DESIGNATED BY CHANGES IN MATERIAL, TEXTURE AND COLOR.
- THE DEVELOPMENT OF THIS PROPERTY SHALL PROCEED IN ACCORDANCE WITH THE DEVELOPMENT PLAN AS RECOMMENDED FOR APPROVAL BY THE PLANNING COMMISSION AND APPROVED BY THE GOVERNING BODY, AND ANY SUBSTANTIAL DEVIATION OF THE PLAN, AS DETERMINED BY THE ZONING ADMINISTRATOR AND THE DIRECTOR OF PLANNING, SHALL CONSTITUTE A VIOLATION OF THE BUILDING PERMIT AUTHORIZING CONSTRUCTION OF THE PROPOSED DEVELOPMENT.
- THE FOLLOWING USES SHALL BE PROHIBITED IN ALL PARCELS: CEMETARY, CORRECTIONAL PLACEMENT RESIDENCES, NIGHT CLUB IN THE CITY, AND NIGHT CLUB IN THE COUNTY. ANY USES ALLOWED ONLY BY CONDITIONAL USE SHALL NOT BE ALLOWED EXCEPT BY CUP AMENDMENT. THE FOLLOWING USES SHALL BE PROHIBITED WITHIN 200 FEET OF RESIDENTIALLY ZONED PROPERTY: SERVICE STATIONS, CONVENIENCE STORES WITH GAS ISLANDS, RESTAURANTS WITH DRIVE-IN OR DRIVE-THROUGH FACILITIES AND VEHICLE REPAIR. THERE SHALL BE NO OVERHEAD DOORS FOR AUTO SERVICES OR REPAIR USES FACING RESIDENTIAL DISTRICTS.

| | |
|---|---|
| PARCEL NO. 1 PROPOSED USES: ALL PERMITTED USES IN THE "LC" LIMITED COMMERCIAL ZONING DISTRICT EXCEPT: TAVERNS, NIGHT CLUBS, DRINKING ESTABLISHMENTS OR ADULT ENTERTAINMENT NET AREA - 301,924 SQ. FT. (6.93 ACRES) MAXIMUM BUILDING COVERAGE - 91,399 SQ. FT. (30% MAX.) TOTAL NUMBER OF BUILDINGS - 8 PARKING - SEE GENERAL PROVISION NUMBER 7 MAXIMUM BUILDING HEIGHT-35 FEET GROSS FLOOR AREA RATIO: 35% | PARCEL NO. 5 PROPOSED USES: SAME AS PARCEL 1 NET AREA - 79,770 SQ. FT. (1.83 ACRES) MAXIMUM BUILDING COVERAGE - 21,288 SQ. FT. (30% Max.) TOTAL NUMBER OF BUILDINGS - 5 PARKING - SEE GENERAL PROVISION NUMBER 7 MAXIMUM BUILDING HEIGHT-35 FEET GROSS FLOOR AREA RATIO: 35% |
| PARCEL NO. 2 PROPOSED USES: ALL PERMITTED USES IN THE "NR" NEIGHBORHOOD RETAIL ZONING DISTRICT. NET AREA - 45,236 SQ. FT. (1.04 ACRES) MAXIMUM BUILDING COVERAGE - 30% TOTAL NUMBER OF BUILDINGS - 3 PARKING - SEE GENERAL PROVISION NUMBER 7 MAXIMUM BUILDING HEIGHT-35 FEET GROSS FLOOR AREA RATIO: 30% | PARCEL NO. 6 PROPOSED USES: SAME AS PARCEL 1 NET AREA - 71,516 SQ. FT. (1.64 ACRES) MAXIMUM BUILDING COVERAGE - 30% TOTAL NUMBER OF BUILDINGS - 5 PARKING - SEE GENERAL PROVISION NUMBER 7 MAXIMUM BUILDING HEIGHT-35 FEET GROSS FLOOR AREA RATIO: 35% |
| PARCEL NO. 3 PROPOSED USES: SAME AS PARCEL 1 NET AREA - 45,236 SQ. FT. (1.04 ACRES) MAXIMUM BUILDING COVERAGE - 30% TOTAL NUMBER OF BUILDINGS - 3 PARKING - SEE GENERAL PROVISION NUMBER 7 MAXIMUM BUILDING HEIGHT-35 FEET GROSS FLOOR AREA RATIO: 30% | PARCEL NO. 7 PROPOSED USES: SAME AS PARCEL 1 NET AREA - 77,143 SQ. FT. (1.77 ACRES) MAXIMUM BUILDING COVERAGE - 30% TOTAL NUMBER OF BUILDINGS - 5 PARKING - SEE GENERAL PROVISION NUMBER 7 MAXIMUM BUILDING HEIGHT-35 FEET GROSS FLOOR AREA RATIO: 35% |
| PARCEL NO. 4 PROPOSED USES: SAME AS PARCEL 1 NET AREA - 45,236 SQ. FT. (1.04 ACRES) MAXIMUM BUILDING COVERAGE - 30% TOTAL NUMBER OF BUILDINGS - 3 PARKING - SEE GENERAL PROVISION NUMBER 7 MAXIMUM BUILDING HEIGHT-35 FEET GROSS FLOOR AREA RATIO: 30% | PARCEL NO. 8 PROPOSED USES: SAME AS PARCEL 1 NET AREA - 231,202 SQ. FT. (5.31 ACRES) MAXIMUM BUILDING COVERAGE - 77056 SQ. FT. (30% Max.) TOTAL NUMBER OF BUILDINGS - 8 PARKING - SEE GENERAL PROVISION NUMBER 7 MAXIMUM BUILDING HEIGHT-45 FEET GROSS FLOOR AREA RATIO: 40% |
| | PARCEL NO. 9 PROPOSED USES: SAME AS PARCEL 1 NET AREA - 389,117 SQ. FT. (8.93 ACRES) MAXIMUM BUILDING COVERAGE - 121,742 SQ. FT. (30% Max.) TOTAL NUMBER OF BUILDINGS - 10 PARKING - SEE GENERAL PROVISION NUMBER 7 MAXIMUM BUILDING HEIGHT-41 FEET GROSS FLOOR AREA RATIO: 40% |

LEGEND

□ = Proposed Monument Sign

GROSS SIGN CALCULATIONS

| FOR INFORMATION PURPOSES ONLY | | | | SIGN SCHEDULE | | | | | | | | | |
|--|-------------|----------------|--------------|------------------------|--------------------------------|---------------------------|------------|------------------------|------------|----------------------------|---------------------------|------------|----------------------------|
| PARCEL NO. | SIGN NUMBER | SIZE (Sq. Ft.) | HEIGHT (Ft.) | NOTES | CENTRAL FRONTAGE (Linear Feet) | ALLOWED SIGNAGE (Sq. Ft.) | OVER UNDER | 80% FRONTAGE | | K96 FRONTAGE (Linear Feet) | ALLOWED SIGNAGE (Sq. Ft.) | OVER UNDER | TOTAL |
| | | | | | | | | FRONTAGE (Linear Feet) | OVER UNDER | | | | |
| 2 | 1 | 100 | 25 | Proposed Sign Location | 225 | 180 | (80.00) | | | | | | (80.00) |
| 3 | 2 | 250 | 25 | Proposed Sign Location | 225 | 180 | (80.00) | | | | | | (80.00) |
| 4 | 3 | 100 | 25 | Proposed Sign Location | 225 | 180 | (80.00) | | | | | | (80.00) |
| 5 | 4 | 150 | 25 | Proposed Sign Location | | | | 147.3 | 117.84 | 32.16 | 283 | 284 | (133.80) (133.80) (101.64) |
| 5 | 5 | 150 | 25 | Proposed Sign Location | | | | | | | 276 | 220 | (70.00) (70.00) (70.00) |
| 6 | 6 | 150 | 25 | Proposed Sign Location | | | | | | | 336.1 | 269 | (68.88) (68.88) (68.88) |
| 7 | 7 | 200 | 25 | Proposed Sign Location | | | | | | | | | |
| 8 | 8 | 250 | 25 | Proposed Sign Location | 210 | 168.00 | (43.00) | 414.16 | 331.33 | (56.33) | 521.24 | 417 | (166.99) (166.99) (266.32) |
| 9 | 9 | 150 | 25 | Proposed Sign Location | | | | | | | | | |
| 9 | 10 | 150 | 25 | Proposed Sign Location | | | | | | | | | |
| 9 | 12 | 150 | 25 | Proposed Sign Location | | | | | | | | | |
| 9 | 13 | 250 | 25 | Proposed Sign Location | | | | | | | | | |
| Other | 11 | 250 | 25 | Proposed Sign Location | | | | | | | | | |
| TOTAL GROSS SIGNAGE OVER (UNDER) ALLOWED GROSS SIGN RIGHTS | | | | | | | | | | | | | (1271.34) |

* Calculation for proposed signage along K96 access road frontage is 50%

City of Wichita
City Council Meeting
July 22, 2008

TO: Mayor and City Council

SUBJECT: CUP2008-00015 AND ZON2008-00021 – Creation of DP-313 Parker Addition Community Unit Plan and zone change from SF-5 Single-family Residential (“SF-5”) to LC Limited Commercial (“LC”), generally located on the northwest and southeast corners of Central Avenue and 127th Street East. (District II)

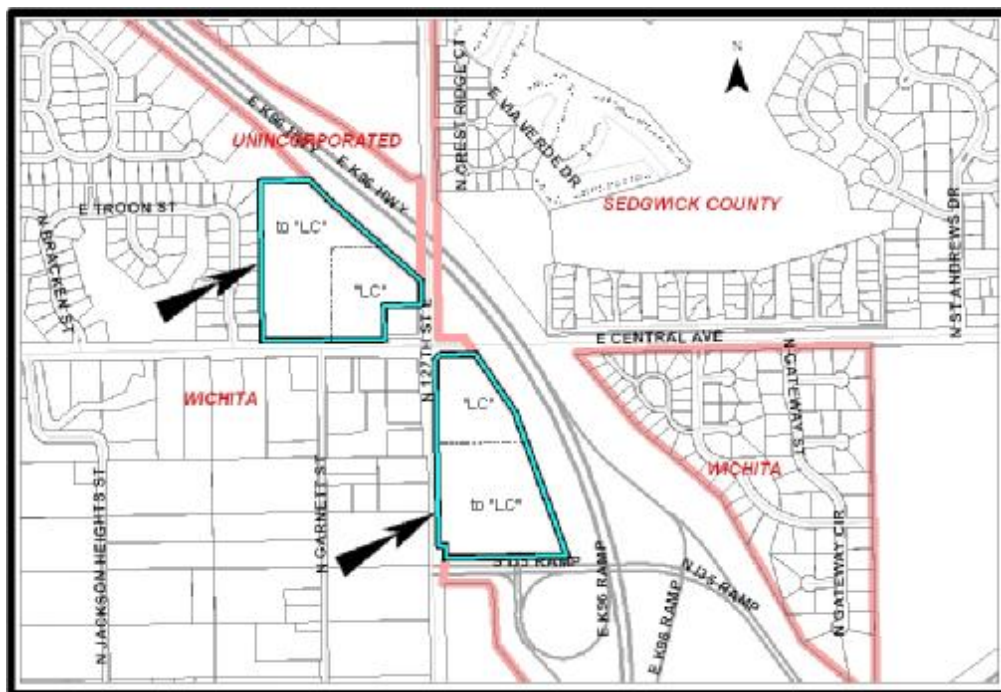
INITIATED BY: Metropolitan Area Planning Department

AGENDA: Planning (Consent)

MAPC Recommendations: Approve, subject to staff recommendations with modification (13-0).

MAPD Staff Recommendations: Approve, subject to conditions.

DAB Recommendations: Approve, subject to staff recommendations with modification (10-0).



BACKGROUND: The applicant proposes to create a commercial Community Unit Plan (“CUP”) containing 29.5 acres with nine parcels located on the northwest and southeast corners of the intersection of Central Avenue and 127th Street East and running parallel to K-96. Ten acres (10.1) of the CUP are zoned LC Limited Commercial (“LC”) and the applicant has requested to rezone the balance of the CUP (19.4 acres) from SF-5 Single-family Residential (“SF-5”) to LC. Parcels 1-7 would comprise the property to the northwest of the intersection, except for the 0.8-acre corner tract that is under separate ownership and already developed as a convenience store with gas islands and a single-bay car wash. Parcels 8 and 9 would comprise the property bordered by Central Avenue, K-96, the south I-135 ramp and 127th Street East.

All parcels except Parcel 2 would allow uses permitted by right in the LC district. Parcel 2, which is located on the western edge of the CUP along Central adjacent to Crestlake Addition, would be restricted to NR Neighborhood Retail (“NR”) uses. Uses prohibited on the entire CUP are: cemetery, correctional placement residences, taverns, nightclubs, drinking establishments or adult entertainment establishments (sexually oriented businesses). Additional prohibitions are on auto-oriented uses (service stations, convenience stores with gas islands, restaurants with drive-in or drive through facilities and vehicle repair) within 200 feet of residential zoning, overhead doors facing residential districts, and screening of trash enclosures, mechanical equipment, loading docks and service areas.

The CUP provides architectural standards, consistent design of lighting elements with height limitation of 20 feet, landscape palette consistency and more stringent planting ratios, and avoidance of neon and florescent lighting on buildings. A standard masonry wall is required on the north and west property lines of Parcels 1, 2 and 7. Additional signage and lighting provisions are suggested to protect the adjacent residential development under construction from the commercial uses.

Perimeter setbacks are 35 feet. However, the CUP proposes reducing the front setback to 20 feet if the area between the right-of-way line and the street wall line (defined as a line extending from the front building façade) is limited to landscaped area. Also, buildings on parcels located along the arterial streets are to be sited with the primary façade facing the street and no more than one drive aisle between the primary façade and the street.

Pedestrian connectivity and internal site circulation and cross-lot circulation are required. Maximum building coverage would be 30 percent; maximum gross floor area would be 35 percent of total land area, and maximum building height would be 35 feet. The requested number of buildings is large, being ten for Parcel 9, eight for Parcels 1 and 8, five for Parcels 5, 6 and 7, and three for Parcels 2, 3 and 4.

The CUP proposes a sign plan consisting of a more limited number of sign locations, and specifies the maximum sizes permitted. Continuous movement signs are prohibited, temporary banners/pennants are allowed per specific guidelines. Building wall signage is limited to the use of individual letters, with three feet height of letters for Parcel 1 and two feet for other parcels, and otherwise would seem to be per Wichita Sign Code.

The property is vacant. The tract excluded from the CUP on the northwest corner of Central Avenue and 127th Street East has a convenience store with gas islands and a single-bay car wash on property zoned LC. The property on the southwest corner of Central and 127th Street East is zoned LC and has a strip commercial building with retail/personal service types of uses and a bank, but over half of this CUP (DP-247) is undeveloped. A warehouse, self-service storage facility and a vacant tract is located on the next property to the west of DP-247. The land to the north and west of Parcels 1, 2 and 7 is zoned SF-5 and is being developed in single-family residences in Crestlake Subdivision and Preston Trails. The property to the west of Parcel 8 along 127th Street East is held in large residential lots. The property to the south of Parcel 9 is vacant land with OW Office Warehouse (“OW”) zoning and is part of DP-248. The KTA southbound ramp forms the southern boundary of Parcel 9. K-96 borders the property on the east. The land east of K-96 is zoned SF-5 and consists of single-family development in Bridgefield Subdivision and Crestview, an assisted living facility and a church.

The property is not platted. DP-255 KTP Center Addition Community Unit Plan (CUP2001-00005) and an associated zone change to LC and GO General Office (“GO”) (ZON2001-00009), was approved in 2001 for a larger tract of 51 acres, but which included the 12 acres (Parcels 1-7) of this request. This case was denied and closed for failure to plat.

Analysis: At the District II Advisory Board meeting held June 16, 2008, the DAB voted (10-0) to approve the CUP and the zone change subject to staff recommendations. The DAB also requested consideration of additional landscaping protections to mitigate the visual impact on the subdivision located east of K-96. A representative of the Bridgefield Subdivision spoke to the DAB, raising concerns about the visibility of signage, lighting, etc., to the houses east of K-96.

At the MAPC meeting held June 19, 2008, MAPC voted (13-0) to recommend approval of the CUP and zone change request subject to staff recommendation, but with an additional landscape buffer along K-96. A representative of the Bridgefield Subdivision again raised concerns about the visibility of commercial activities to the houses east of K-96. The addition of a landscape buffer of one tree per 50 linear feet was included to address the concerns.

The recommended alternative setback of 20 feet (General Provision #21) is a modification of the Unified Zoning Code CUP requirements and would require governing body approval. It would be permitted only if the area between the building and right-of-way was devoted to landscaping. The modification is intended to bring the commercial buildings closer to the street to reduce the impact of parking lots on the visual corridor. No protest petitions have been filed.

The MAPC recommendation is be: APPROVED subject to platting within one year and subject to the following conditions:

- A. APPROVE the zone change (ZON2008-00021) to LC for the property zoned SF-5 subject to platting within one year.
- B. APPROVE the Community Unit Plan (DP-313), subject to the following conditions:
 - 1. Revise General Provision #4 to state: “Signage will be permitted as allowed by the Sign Code, City Code Title 24.04, with the following additional conditions/ limitations.”
 - 2. Revise General Provision #4A to prohibit off-site signs and billboards.
 - 3. Clarify General Provision #4C: “Each parcel shall be permitted monument style ground signage as indicated in the Sign Schedule. Please refer to ‘Legend: Proposed Monument Sign’ schedule on this document.”
 - 4. Limit the height of monument signage on Parcel 2 to 15 feet.
 - 5. Add to General Provision #4F: “Prohibit building wall signs facing residential zoning on Parcels 1-7.”
 - 6. Revise General Provision #13 to limit the height of lighting to 15 feet within 100 feet of residential zoning.
 - 7. Revise General Provision #23 to require construction of the masonry wall when any portion(s) of Parcels 1, 2 and/or 7 are developed.
 - 8. Provide guarantees for left turn center lanes and right turn decel lanes to all full movement approaches at time of platting.
 - 9. It is recommended that the drive alignment between Parcel 2 and Parcel 3 be shifted to align with Garnett Street, that drive openings shall be aligned with existing drives on 127th Retail Addition and that the remaining frontage shall be platted per Access Management Policy.
 - 10. Any major changes in this development plan shall be submitted to the Planning Commission and to the Governing Body for their consideration.
 - 11. The transfer of title of all or any portion of the land included within the Community Unit Plan does not constitute a termination of the plan or any portion thereof, but said plan shall run with the land for commercial development and be binding upon the present owners, their successors and assigns, unless amended.

12. The ordinance/resolution establishing the zone change shall not be published until the platting has been recorded with the Register of Deeds.
13. Prior to publishing the ordinance/resolution establishing the zone change, the applicant(s) shall record a document with the Register of Deeds indicating that this tract (referenced as DP-313) includes special conditions for development on this property.
14. The applicant shall submit four revised copies of the CUP to the Metropolitan Area Planning Department within 60 days after approval of this case by the Governing Body, or the request shall be considered denied and closed.
15. Provide landscaping along the K-96 frontage of one shade tree per 50 linear feet of frontage, or per the Landscape Ordinance if this is more stringent.

Financial Considerations: None.

Goal Impact: Promote Economic Vitality and Affordable Living.

Legal Considerations: The ordinance has been reviewed and approved as to form by the Law Department.

Recommendation/Actions:

1. Adopt the findings of the MAPC and approve the Community Unit Plan, including the additional landscape requirement and alternate setback, and the zone change to LC Limited Commercial subject to platting within one year; withhold the publication of the ordinance until the plat is recorded; or
2. Return the application to the MAPC for reconsideration.

(An override of the Planning Commission's recommendation requires a two-thirds majority vote of the City Council on the first hearing.)

Covenant

This covenant, executed this 26 day of JUNE, 2008.

WITNESSETH:

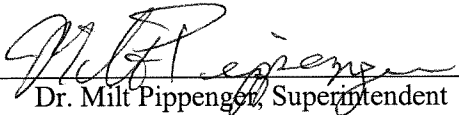
WHEREAS, the undersigned are in the process of platting that certain real property to be known as Maize School South Campus Addition to Wichita, Sedgwick County, Kansas; and

WHEREAS, as a part of the platting process certain requirements have been made by the Wichita-Sedgwick County Metropolitan Commission providing for the ownership and maintenance of the drainage reserve.

NOW, THEREFORE, the undersigned do hereby subject Maize School South Campus Addition to Wichita, Sedgwick County, Kansas, Reserves B and C, to the following covenants:

1. The ownership and maintenance of the drainage reserves shall be by the undersigned.
2. In the event that the undersigned, its successors or assigns, shall fail to maintain the drainage systems within the reserves or common areas, the City of Wichita may serve a Notice of Delinquency upon the undersigned or the association setting forth the manner in which the undersigned or the association has failed to fulfill its obligations. Such Notice shall include a statement describing the obligation that has not been fulfilled. If said obligation has not been fulfilled within the said time specified, the City of Wichita, may, in order to preserve the taxable value of the properties within the Addition and to prevent the reserves or common areas from being a nuisance, enter upon said reserves or common areas and perform the obligations listed in the Notice of Delinquency. All cost incurred by the City of Wichita in carrying out the obligations of the undersigned may be assessed against the reserves in the same manner as provided by law for such assessments and said assessments may be established as liens upon said reserves. Should the undersigned or the association, its successors or assigns, upon receipt of reason, within the twenty-day period to be provided in said notice, apply for a hearing before the City Council to appeal said assessments, any further proceedings under said Notice shall be suspended pending the outcome of any proceedings with respect to such appeal.
3. This covenant is binding on the owners, their successors and assigns, and is a covenant running with the land and is binding on all successors in title to the above described property.


IN TESTIMONY WHEREOF, the parties hereto have hereunto set their hands the day and year first above written.

By: 
Dr. Milt Pippenger, Superintendent
Maize USD 266

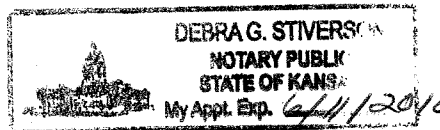
State of Kansas)

County of Sedgwick)

Be it remembered that on this 25 day of June, 2008, before me a Notary Public in and for said State and County, came Dr. Milt Pippenger, Superintendent, Maize USD 266, to me personally known to be the same person who executed the foregoing instrument of writing and duly acknowledged the execution of the same. In testimony whereof, I have hereunto set my hand and affixed my notarial seal the day and year above written.

, Notary Public

My Appointment Expires: June 11, 2010



Covenant

This covenant, executed this 26th day of June, 2008.

WITNESSETH:

WHEREAS, the undersigned are in the process of platting that certain real property to be known as Maize School South Campus Addition to Wichita, Sedgwick County, Kansas; and

WHEREAS, as a part of the platting process certain requirements have been made by the Wichita-Sedgwick County Metropolitan Commission providing for the ownership and maintenance of the drainage reserve.

NOW, THEREFORE, the undersigned do hereby subject Maize School South Campus Addition to Wichita, Sedgwick County, Kansas, Reserve A, to the following covenants:

1. The ownership and maintenance of the drainage reserves shall be by the undersigned.
2. In the event that the undersigned or the association, its successors or assigns, shall fail to maintain the drainage systems within the reserves or common areas, the City of Wichita may serve a Notice of Delinquency upon the undersigned or the association setting forth the manner in which the undersigned or the association has failed to fulfill its obligations. Such Notice shall include a statement describing the obligation that has not been fulfilled. If said obligation has not been fulfilled within the said time specified, the City of Wichita, may, in order to preserve the taxable value of the properties within the Addition and to prevent the reserves or common areas from being a nuisance, enter upon said reserves or common areas and perform the obligations listed in the Notice of Delinquency. All cost incurred by the City of Wichita in carrying out the obligations of the undersigned may be assessed against the reserves in the same manner as provided by law for such assessments and said assessments may be established as liens upon said reserves. Should the undersigned or the association, its successors or assigns, upon receipt of reason, within the twenty-day period to be provided in said notice, apply for a hearing before the City Council to appeal said assessments, any further proceedings under said Notice shall be suspended pending the outcome of any proceedings with respect to such appeal.
3. This covenant is binding on the owners, their successors and assigns, and is a covenant running with the land and is binding on all successors in title to the above described property.

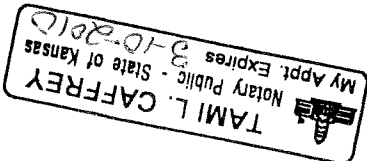
IN TESTIMONY WHEREOF, the parties hereto have hereunto set their hands the day and year first above written.

By: *[Signature]*, President
Fox Ridge Home Owners Association

State of Kansas)
County of Sedgwick)

Be it remembered that on this 26th day of June, 2008, before me a Notary Public in and for said State and County, came *[Signature]*,
President, Fox Ridge Home Owners Association, to me personally known to be the same person who executed the foregoing instrument of writing and duly acknowledged the execution of the same. In testimony whereof, I have hereunto set my hand and affixed my notarial seal the day and year above written.

[Signature], Notary Public
My Appointment Expires: 3-10-2010



City of Wichita
City Council Meeting
July 22, 2008

TO: Mayor and City Council Members

SUBJECT: SUB 2007-92 -- Plat of Maize School South Campus Addition located on the south side of 37th Street North between Maize Road and Tyler Road. (District V)

INITIATED BY: Metropolitan Area Planning Department

AGENDA ACTION: Planning (Consent)

Staff Recommendation: Approve the plat.

MAPC Recommendation: Approve the plat. (12-0)

Background: This site, consisting of two lots on 269.5 acres, is a replat of Central Maize Schools Addition and unplatted land to the west. This site is located within Wichita's city limits and is zoned SF-5 Single-family Residential.

Analysis: City water and sanitary sewer services are available to serve the site. Restrictive Covenants have been submitted to provide for the ownership and maintenance of the proposed reserves.

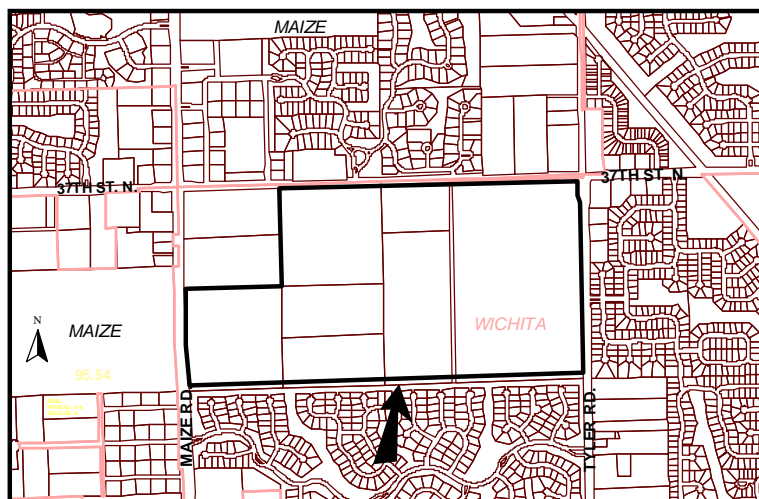
This plat has been reviewed and approved by the Metropolitan Area Planning Commission, subject to conditions.

Financial Considerations: None.

Goal Impact: Ensure Efficient Infrastructure.

Legal Considerations: The Restrictive Covenants will be recorded with the Register of Deeds.

Recommendations/Actions: Approve the documents and plat and authorize the necessary signatures.



**City of Wichita
City Council Meeting
July 22, 2008**

TO: Mayor and City Council

SUBJECT: VAC2008-00016 Request to vacate a portion of a platted easement, generally located west of K-96 Highway, midway between 13th and 21st Streets North, northeast of the Crestwood and Chapel Hill Streets intersection. (District II)

INITIATED BY: Metropolitan Area Planning Department

AGENDA: Planning (Consent)

Staff Recommendation: Approve.

MAPC Recommendation: Approve (unanimously).

Background: The applicant is requesting consideration for the vacation of the east 20 feet of the west 30 feet of the platted 40 foot utility easement. Thirty feet of the platted 40 foot easement is located on Lot 6, Block 3, Chapel Hill 2nd Addition. There is a storm water pipe, manholes and sewer line located in the west portion of the subject platted easement (the 10 feet located on Lot 7, Block 3, the Chapel Hill 2nd Addition), which is outside of the proposed area to be vacated. There are no utilities located within the proposed area to be vacated in the platted utility easement. The Chapel Hill 2nd Addition was recorded with the Register of Deeds on April 5, 2003.

Analysis: The MAPC voted (13-0) to approve the vacation request. No one spoke in opposition to this request at the MAPC's advertised public hearing or its Subdivision Committee meeting. No written protests have been filed.

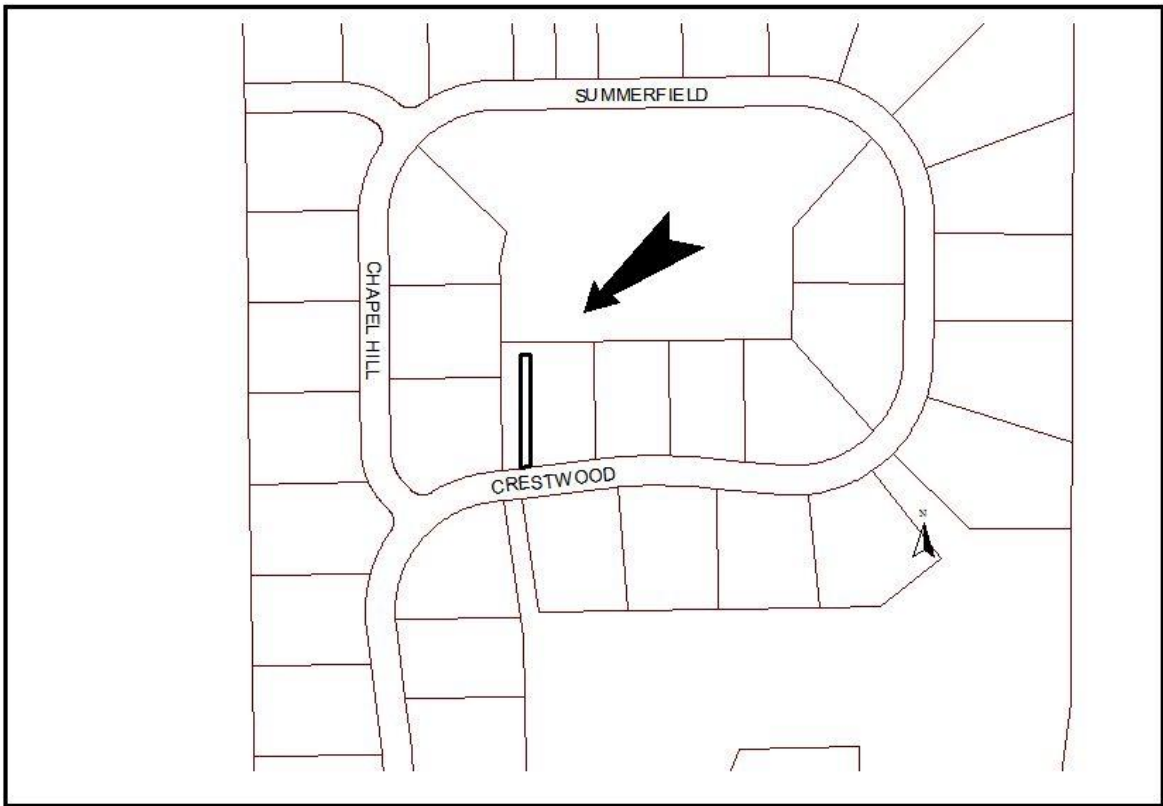
Financial Considerations: None.

Goal Impact: Ensure efficient infrastructure.

Legal Considerations: A certified copy of the Vacation Order will be recorded with the Register of Deeds.

Recommendation/Actions: Follow the recommendation of the Metropolitan Area Planning Commission and approve the Vacation Order, and authorize the necessary signatures.

Attachments: None.



City of Wichita
City Council Meeting
July 22, 2008

TO: Mayor and City Council

SUBJECT: VAC2008-00017 Request to vacate a portion of a setback dedicated by separate instrument; generally located on the southeast corner of 47th Street South and Broadway Avenue. (District III)

INITIATED BY: Metropolitan Area Planning Department

AGENDA: Planning (Consent)

Staff Recommendation: Approve.

MAPC Recommendation: Approve (unanimously).

Background: The applicant proposes to vacate the 35 foot front yard setback dedicated by separate instrument (Misc. Book 663, Page 217) and replace it with the GC General Commercial (“GC”) zoning district’s 20 foot front yard setback. The applicant proposes to tear down the existing McDonald’s restaurant and replace with a new McDonald’s. There is a 20 foot sanitary easement (Court Condemnation case #C-17046) within the proposed GC 20 foot setback, which has manholes and a sewer line in it. There are no utilities located within the proposed setback to be vacated. The site is not part of the abutting (south and east sides of the site) CUP DP-48. There are also CUP overlays on properties located west of the site, across Broadway Avenue, and north of the site, across 47th Street South. The Nolan’s Garden Addition was recorded with the Register of Deeds on December 21, 1925. The Lot Split of Lot 3, Nolan’s Garden Addition was recorded with the Register of Deeds on October 19, 2000.

Analysis: The MAPC voted (13-0) to approve the vacation request. No one spoke in opposition to this request at the MAPC’s advertised public hearing or its Subdivision Committee meeting. No written protests have been filed.

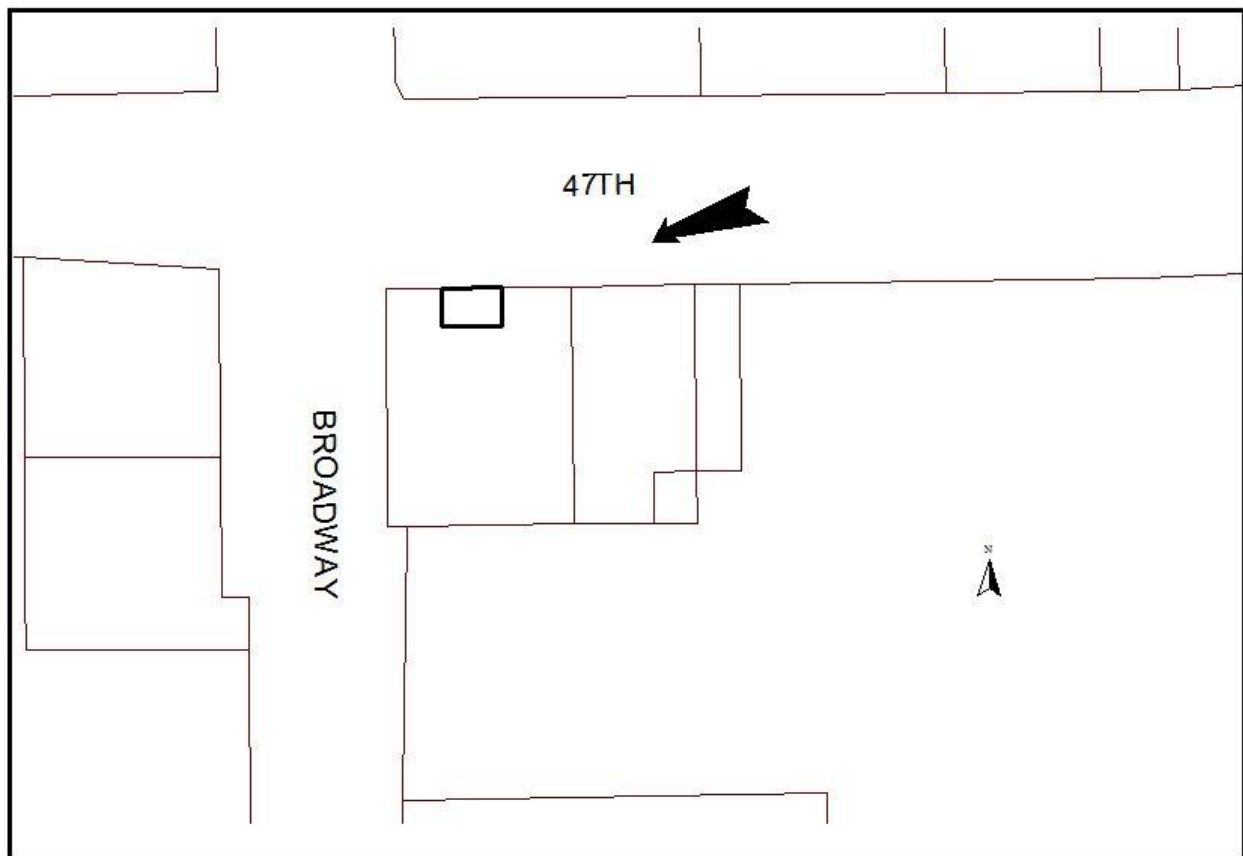
Financial Considerations: None.

Goal Impact: Ensure efficient infrastructure.

Legal Considerations: A certified copy of the Vacation Order will be recorded with the Register of Deeds.

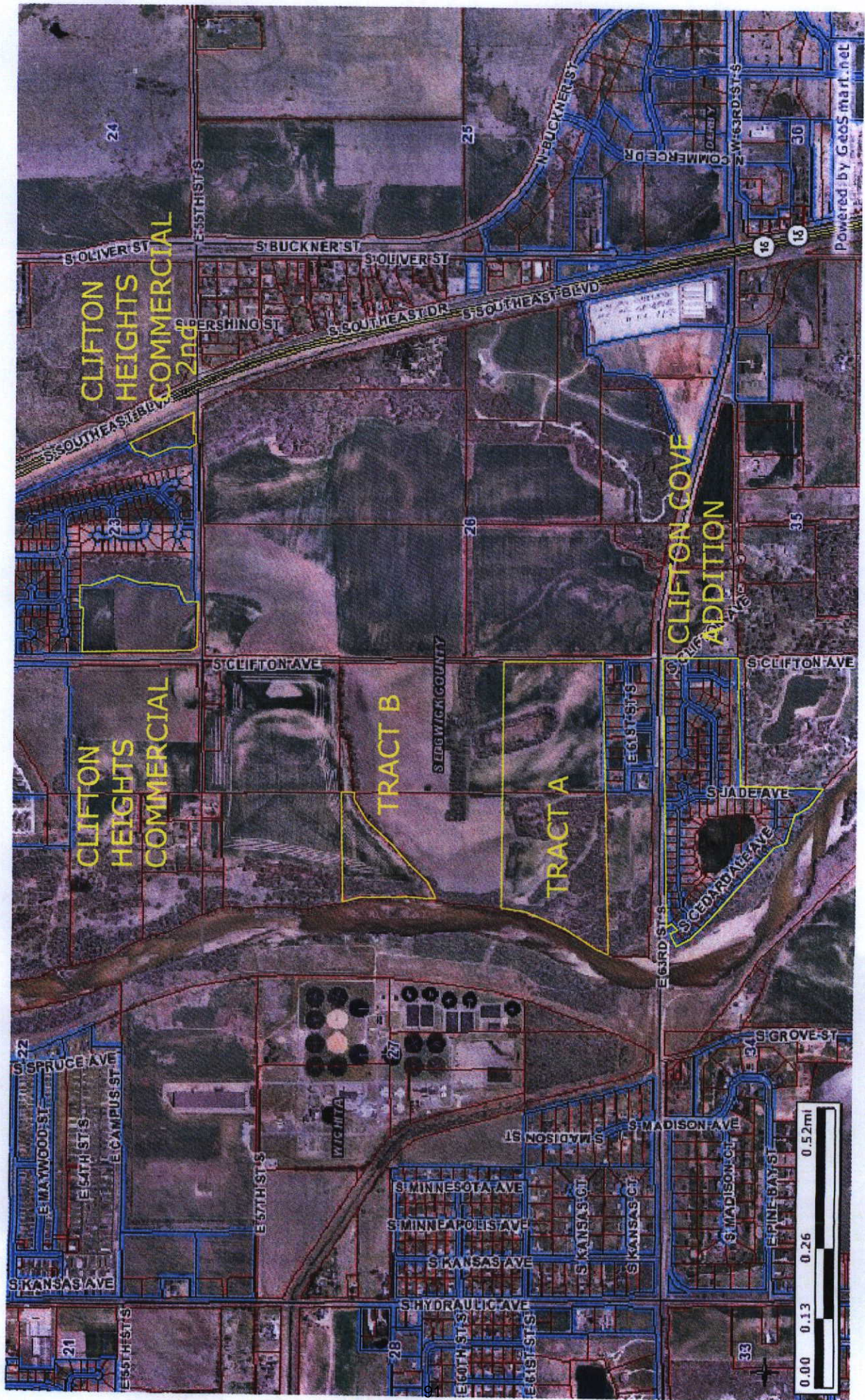
Recommendation/Actions: Follow the recommendation of the Metropolitan Area Planning Commission and approve the Vacation Order, and authorize the necessary signatures.

Attachments: None.



**PRELIMINARY ESTIMATES
FOR CITY COUNCIL JULY 22, 2008**

- a. Rocky Creek Relief Sanitary Sewer Main 14c FMCS (south of 21st Street North, east of 127th Street East) (468-84218/624078/652532) Traffic to be maintained using flagpersons and barricades. (District II) - \$2,892,725.00
- b. Baehr Street Paving from Newell to St. Louis to serve Orchard Park Addition (south of Central, west of West Street) (472-84570/766157/490175) Traffic to be maintained using flagpersons and barricades. (District IV) - \$179,800.00
- c. Baehr Street Paving from Newell to Central to serve Orchard Park Addition (south of Central, west of West Street) (472-84575/766163/490181) Traffic to be maintained using flagpersons and barricades. (District IV) - \$216,056.00
- d. 2008 Contract Maintenance Natural Latex Modified Micro-Surfacing (north of 63rd Street South, east of 135th Street West) (472-84735/132721/) Traffic to be maintained using flagpersons and barricades. (District I, II, III, IV, V, VI) - \$511,400.00
- e. Jeanette Avenue from the north line of Woodland North Addition south to and including the temporary cul-de-sac to serve Woodland North Addition (east of Hood, south of 29th Street North) (472-84649/766213/490231) Does not affect existing traffic. (District VI) - \$166,000.00



WATER MAIN PETITION

REVISED
PROJECT No. 448-90080

To the Mayor and City Council
Wichita, Kansas

Dear Council Members:

1. We, the undersigned owners of record as below designated, of Lots, Parcels, and Tracts of real property described as follows:

448-90080

UNPLATTED TRACT 'A'

The south 1082.30 feet of the Northwest Quarter of the Southwest Quarter of Section 26, Twp. 28-S, R-1-E of the 6th P.M., Sedgwick County, Kansas subject to road rights of way of record; TOGETHER WITH the south 1082.30 feet of Government Lot 3 located in the Southeast Quarter of Section 27, Twp. 28-S, R-1-E of the 6th P.M., Sedgwick County, Kansas.

UNPLATTED TRACT 'B'

That part of Government Lot 1 in the NE $\frac{1}{4}$ of Sec. 27, Twp. 28-S, R-1-E of the 6th P.M., Sedgwick County, Kansas lying east of the Big Arkansas River, except the north 200.00 feet of the east 765.00 feet thereof, TOGETHER WITH the NW $\frac{1}{4}$ of the NW $\frac{1}{4}$ of Sec. 26, Twp. 28-S, R-1-E of the 6th P.M., Sedgwick County, Kansas, subject to road rights-of-way of record, TOGETHER WITH beginning at the NW corner of the SW $\frac{1}{4}$ of the NW $\frac{1}{4}$ of Sec. 26, Twp. 28-S, R-1-E of the 6th P.M., Sedgwick County, Kansas; thence easterly along the north line of the SW $\frac{1}{4}$ of said NW $\frac{1}{4}$, 568.00 feet; thence southerly parallel with the west line of said NW $\frac{1}{4}$, 58.5 feet, more or less, to the centerline of a ditch; thence following the centerline of said ditch to a point on the west line of said NW $\frac{1}{4}$, 140.00 feet, more or less, south of the NW corner of the SW $\frac{1}{4}$ of said NW $\frac{1}{4}$; thence northerly along the west line of said NW $\frac{1}{4}$, 140.00 feet, more or less, to the point of beginning, TOGETHER WITH a tract in Government Lot 2 in the NE $\frac{1}{4}$ of Sec. 27, Twp. 28-S, R-1-E of the 6th P.M., Sedgwick County, Kansas described as beginning at the NE corner of said Government Lot 2; thence southerly, along the east line of said Government Lot 2, 140 feet to the centerline of a ditch; thence southwesterly, along the centerline of said ditch to the point of intersection of said centerline and the East bank of the Big Arkansas River, said point being 830 feet south of the north line of said Government Lot 2; thence northwesterly, along said east bank to a point on the north line of said Government Lot 2; thence east 1062 feet, more or less, to the point of beginning, TOGETHER WITH the SW $\frac{1}{4}$ of the SW $\frac{1}{4}$ of Sec. 23, Twp. 28-S, R-1-E of the 6th P.M., Sedgwick County, Kansas EXCEPT that part of said SW $\frac{1}{4}$ of the SW $\frac{1}{4}$ platted as Meadowlake Beach Addition, Wichita, Sedgwick County, Kansas.

CLIFTON COVE ADDITION

Lots 1 through 30, Block A

Lots 1 through 16, Block B

Lots 1 through 4, Block C

Lots 1 through 24, Block D

Lots 1 through 14, Block E

Lots 1 through 20, Block F

do hereby petition pursuant to the provisions of K.S.A. 12-6a01 et seq., as amended, as follows:

- (a) That there be constructed a water distribution system, including necessary water mains, pipes, valves, hydrants, meters and appurtenances to serve the area described above, according to plans and specifications to be furnished by the City Engineer of the City of Wichita, Kansas.
- (b) That the estimated and probable cost of the foregoing improvements being One Million One Hundred Thousand Dollars (\$1,100,000), with 64.5 percent of the total cost payable by the improvement district and 35.5 percent of the total cost payable by the City of Wichita from Water Department Water Utility Improvement Funds. Said estimated cost as above setforth may be increased to include temporary interest or finance costs incurred during the course of design and construction of the project, and also may be increased at the pro rata rate of 1 percent per month from and after August 1, 2006.
- (c) That the land or area above described be constituted as an improvement district against which shall be assessed 100 percent of the total actual cost of the improvement for which the improvement district is liable.

If this improvement is abandoned, altered and/or constructed privately in part or whole that precludes building this improvement under the authority of this petition, any costs that the City of Wichita incurs shall be assessed to the property described above in accordance with the terms of the petition. In addition, if the improvement is abandoned at any state during the design and/or construction of the improvement or if it is necessary for the City of Wichita to redesign, repair or reconstruct the improvement after its initial design and/or construction because the design or construction does not meet the requirements of the City, then such costs associated with the redesign, repair or reconstruction of said improvement shall be assessed to the property described above in accordance with the terms of this petition.

- (d) That the method of assessment of all costs of the improvement for which the improvement district shall be liable shall be on a fractional basis.

The fractional shares provided for herein have been determined on the basis of equal shares being assessed to lots or parcels of substantially comparable size and/or value: UNPLATTED TRACT 'A' shall pay 29,337/100,000 of the total cost of the improvements; UNPLATTED TRACT 'B' shall pay 45,746/100,000 of the total cost of the improvements; Lot 12, Block F, CLIFTON COVE ADDITION shall pay 200/100,000 of the total cost of the improvements; and Lots 1 through 30, Block A, Lots 1 through 16, Block B, Lots 1 through 4, Block C, Lots 1 through 24, Block D, Lots 1 through 14, Block E, Lots 1 through 11, Block F, and Lots 13 through 20, Block F, CLIFTON COVE ADDITION shall each pay 231/100,000 of the total cost of the improvements.

In the event all or part of the lots or parcels in the improvement district are replatted before assessments have been levied, the assessments against the replatted area shall be recalculated on the basis of the method of assessment set forth herein. Where the ownership of a single lot is or may be divided into two or more parcels, the assessment to the lot so divided shall be assessed to each ownership or parcel on a square foot basis.

2. It is requested that the improvement hereby petitioned be made without notice and hearing, which, but for this request, would be required by K.S.A. 12-6a04. This petition may be combined with other petitions of similar nature in order to form one public improvement project.

3. That names may not be withdrawn from this petition by the signers thereof after the Governing Body commences consideration of the petition or later than seven (7) days after filing, whichever occurs first.

4. That when this petition has been filed with the City Clerk and it has been certified that the signatures thereon are according to the records of the Register of Deeds of Sedgwick County, Kansas, the petition may be found sufficient if signed by either (1) a majority of the resident owners of record of property liable for assessment under the proposal, or (2) the resident owners of record of more than one-half of the area liable for assessment under the proposal, or (3) the owners of record (whether resident or not) of more than one-half of the area liable for assessment under the proposal. The Governing Body is requested to proceed in the manner provided by statute to the end that the petitioned improvements may be expeditiously completed and placed in use if and when such improvements are necessary to serve any building which may be constructed on the real property after the date on this petition.

WITNESS our signatures attached with respect to each of which is indicated the property owned and the date of signing.

| LEGAL DESCRIPTION | SIGNATURE | DATE |
|-------------------|-----------|------|
|-------------------|-----------|------|

UNPLATTED TRACT 'A'

J.R.D., L.L.C.

By: 

Jay W. Russell,
Managing Member

5/7/08

UNPLATTED TRACT 'B'

J.R.D., L.L.C.

By: 

Jay W. Russell,
Managing Member

5/7/08

55th and Clifton Development
Corporation

By: 

Jay W. Russell, President

5/7/08

CLIFTON COVE ADDITION

Lots 1 through 30, Block A

Lots 1 through 16, Block B

Lots 1 through 4, Block C

Lot 1, Block D

Lots 6 through 21, Block D

Lots 1 through 13, Block E

Lots 1 through 11, Block F

Lots 13 and 14, Block F

Lot 16, Block F

Lots 19 and 20, Block F

Caywood, L.L.C.

By: 

Jay W. Russell, Member

5/7/08

CLIFTON COVE ADDITION

Lot 2, Block D

Lots 15, 17 and 18, Block F

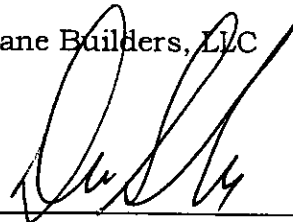
Bob Cook Homes, LLC

By:  5/21/08

CLIFTON COVE ADDITION

Lots 4 and 24, Block D


Brooklane Builders, LLC

By:  5/20/08

CLIFTON COVE ADDITION

Lot 14, Block E

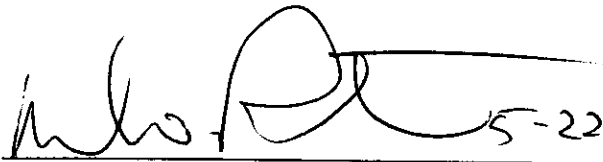
Perfection Builders, LLC

By:  5/22/08

CLIFTON COVE ADDITION

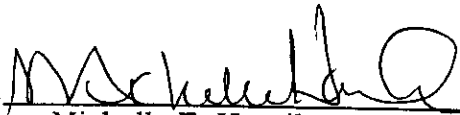
Lots 3 and 22, Block D

Porter Homes, Inc.

By:  5-22-08

CLIFTON COVE ADDITION

Lot 5, Block D

By: 
Michelle E. Hamilton 5/24/08

CLIFTON COVE ADDITION

Lot 23, Block D

By: _____
Jeffrey B. Herndon

CLIFTON COVE ADDITION

Lot 12, Block F

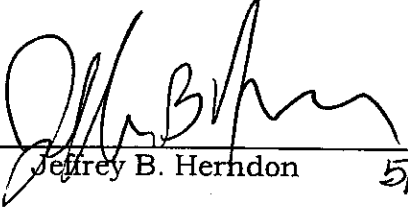
By: _____
Truman N. Tauer

By: _____
Sandra J. Tauer

CLIFTON COVE ADDITION
Lot 5, Block D

By: _____
Michelle E. Hamilton

CLIFTON COVE ADDITION
Lot 23, Block D

By:  _____
Jeffrey B. Herndon 5/22/08

CLIFTON COVE ADDITION
Lot 12, Block F

By: _____
Truman N. Tauer

By: _____
Sandra J. Tauer

CLIFTON COVE ADDITION
Lot 5, Block D

By: _____
Michelle E. Hamilton

CLIFTON COVE ADDITION
Lot 23, Block D

By: _____
Jeffrey B. Herndon

CLIFTON COVE ADDITION
Lot 12, Block F

By: Truman N. Tauer 5/21/08
Truman N. Tauer

By: Sandra J. Tauer 5/21/08
Sandra J. Tauer

AFFIDAVIT

The undersigned, being first duly sworn on his oath, states: That he circulated the attached petition and the signatures thereon are the genuine signatures of the persons they support to be to the best of his knowledge and belief, being signed either in the presence of the undersigned or in the resident owners whose signatures appears on the petition.

Thos White
Name

Baughman Company, P.A.
315 Ellis, Wichita, KS 67211
Address

262-7271
Telephone No.

Sworn to and subscribed before me this 6th day of June
2008.



Michael Sulek, CM
~~Deputy~~ City Clerk

City of Wichita
City Council Meeting
July 22, 2008

Agenda Report No.

TO: Mayor and City Council Members

SUBJECT: Petition to construct a Water Distribution System for Clifton Cove Addition, Clifton Heights Commercial Additions and two unplatted tracts (north and south of 63rd St. South, along both sides of Clifton) (District III)

INITIATED BY: Department of Public Works

AGENDA: Consent

Recommendation: Approve the new Petition.

Background: On August 22, 2006, the City Council approved a Petition to construct a Water Distribution System for an area along Clifton, north and south of 63rd St. South. The developer has since donated land in the improvement district to the City for a public park and has submitted a new Petition to remove the park property from the improvement district. The signatures on the new Petition represent 100% of the improvement district.

Analysis: The project serves new residential and commercial developments located on both sides of Clifton, between 63rd St. South and 55th St. South.

Financial Considerations: The Petition budget is unchanged.

Goal Impact: This project addresses the Efficient Infrastructure goal by providing water system improvements necessary for new residential and commercial development.

Legal Considerations: State Statutes provide that a Petition is valid if signed by a majority of resident property owners or owners of a majority of property in the improvement district.

Recommendations/Actions: It is recommended that the City Council approve the new Petition, adopt the Resolution and authorize the necessary signatures.

Attachments: Map, Petition and Resolution

First Published in the Wichita Eagle on

RESOLUTION NO. _____

RESOLUTION OF FINDINGS OF ADVISABILITY AND RESOLUTION AUTHORIZING CONSTRUCTION OF **WATER DISTRIBUTION SYSTEM NUMBER 448-90080 (ALONG CLIFTON, FROM 63RD ST. SOUTH TO 55TH ST. SOUTH)** IN THE CITY OF WICHITA, KANSAS, PURSUANT TO FINDINGS OF ADVISABILITY MADE BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS.

BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS, THAT THE FOLLOWING FINDINGS AS TO THE ADVISABILITY OF CONSTRUCTING **WATER DISTRIBUTION SYSTEM NUMBER 448-90080 (ALONG CLIFTON, FROM 63RD ST. SOUTH TO 55TH ST. SOUTH)** IN THE CITY OF WICHITA, KANSAS, ARE HEREBY MADE TO-WIT:

SECTION 1. That Resolution No. **05-608** adopted on **November 15, 2005** and Resolution No. **06-452** adopted on **August 22, 2007** are hereby rescinded.

SECTION 2. That it is necessary and in the public interest to construct **Water Distribution System Number 448-90080 (along Clifton, from 63rd St. South to 55th St. South)** in the City of Wichita, Kansas.

SECTION 3. That the cost of said improvements provided for hereof is estimated to be **One Million One Hundred Thousand Dollars (\$1,100,000)** exclusive of the cost of interest on borrowed money, with **64.5** percent payable by the improvement district and **35.5** percent of the total cost payable by the City of Wichita from Water Department Water Utility Improvement Funds. Said estimated cost as above set forth is hereby increased at the pro-rata rate of 1 percent per month from and after **August 1, 2006**, exclusive of the costs of temporary financing.

SECTION 4. That all costs of said improvements attributable to the improvement district, when ascertained, shall be assessed against the land lying within the improvement district described as follows:

UNPLATTED TRACT 'A'

The south 1082.30 feet of the Northwest Quarter of the Southwest Quarter of Section 26, Twp. 28-S, R-1-E of the 6th P.M., Sedgwick County, Kansas subject to road rights of way of record; TOGETHER WITH the south 1082.30 feet of Government Lot 3 located in the Southeast Quarter of Section 27, Twp. 28-S, R-1-E of the 6th P.M., Sedgwick County, Kansas.

UNPLATTED TRACT 'B'

That part of Government Lot 1 in the NE ¼ of Sec. 27, Twp. 28-S, R-1-E of the 6th P.M., Sedgwick County, Kansas lying east of the Big Arkansas River, except the north 200.00 feet of the east 765.00 feet thereof, TOGETHER WITH the NW ¼ of the NW ¼ of Sec. 26, Twp. 28-S, R-1-E of the 6th P.M., Sedgwick County, Kansas, subject to road rights-of-way of record, TOGETHER WITH beginning at the NW corner of the SW ¼ of the NW ¼ of Sec. 26, Twp. 28-S, R-1-E of the 6th P.M., Sedgwick County, Kansas; thence easterly along the north line of the SW ¼ of said NW ¼, 568.00 feet; thence southerly parallel with the west line of said NW ¼, 58.5 feet, more or less, to the centerline of a ditch; thence following the centerline of said ditch to a point on the west line of said NW ¼, 140.00 feet, more or less, south of the NW corner of the SW ¼ of said NW ¼; thence northerly along the west line of said NW ¼, 140.00 feet, more or less, to the point of beginning, TOGETHER WITH a tract in Government Lot 2 in the NE ¼ of Sec. 27, Twp. 28-S, R-1-E of the 6th P.M., Sedgwick County, Kansas described as beginning at the NE corner of said Government Lot 2; thence southerly, along the east line of said Government Lot 2, 140 feet to the centerline of a ditch; thence southwesterly, along the centerline of said ditch to the point of intersection of said centerline and the East bank of the Big Arkansas River, said point being 830 feet south of the north line of said Government Lot 2; thence northwesterly, along said east bank to a point on the north line of said Government Lot 2; thence east 1062 feet, more or less, to the point of beginning, TOGETHER WITH the SW ¼ of the SW ¼ of Sec. 23, Twp. 28-S, R -1-E of the 6th P.M., Sedgwick County, Kansas EXCEPT that part of said SW ¼ of the SW ¼ platted as Meadowlake Beach Addition, Wichita, Sedgwick County, Kansas.

CLIFTON COVE ADDITION

Lots 1 through 30, Block A
Lots 1 through 16, Block B
Lots 1 through 4, Block C
Lots 1 through 24, Block D
Lots 1 through 14, Block E
Lots 1 through 20, Block F

SECTION 5. That the method of apportioning all costs of said improvements attributable to the owners of land liable for assessment shall be on a **fractional** basis:

The fractional shares provided for herein have been determined on the basis of equal shares being assessed to lots or parcels of substantially comparable size and/or value: UNPLATTED TRACT 'A' shall pay 29,337/100,000 of the total cost of the improvements; UNPLATTED TRACT 'B' shall pay 45,746/100,000

of the total cost of the improvements; Lot 12, Block F, CLIFTON COVE ADDITION shall pay 200/100,000 of the total cost of the improvements; and Lots 1 through 30, Block A, Lots 1 through 16, Block B, Lots 1 through 4, Block C, Lots 1 through 24, Block D, Lots 1 through 14, Block E, Lots 1 through 11, Block F, and Lots 13 through 20, Block F, CLIFTON COVE ADDITION shall each pay 231/100,000 of the total cost of the improvements.

In the event all or part of the lots or parcels in the improvement district are replatted before assessments have been levied, the assessments against the replatted area shall be recalculated on the basis of the method of assessment set forth herein. Where the ownership of a single lot is or may be divided into two or more parcels, the assessment to the lot so divided shall be assessed to each ownership or parcel on a square foot basis.

SECTION 6. That payment of said assessments may indefinitely be deferred as against those property owners eligible for such deferral available through the Special Assessment Deferral Program.

SECTION 7. That the City Engineer shall prepare plans and specifications for said improvement and a preliminary estimate of cost therefore, which plans, specifications, and a preliminary estimate of cost shall be presented to this Body for its approval.

SECTION 8. Whereas, the Governing Body of the City, upon examination thereof, considered, found and determined the Petition to be sufficient, having been signed by the owners of record, whether resident or not, of more than Fifty Percent (50%) of the property liable for assessment for the costs of the improvement requested thereby; the advisability of the improvements set forth above is hereby established as authorized by K.S.A. 12-6a01 et seq., as amended.

SECTION 9. Be it further resolved that the above described improvement is hereby authorized and declared to be necessary in accordance with the findings of the Governing Body as set out in this resolution.

SECTION 10. That the City Clerk shall make proper publication of this resolution, which shall be published once in the official City paper and which shall be effective from and after said publication.

PASSED by the governing body of the City of Wichita, Kansas, this _____ day
of _____, 2008.

CARL BREWER, MAYOR

ATTEST:

KAREN SUBLETT, CITY CLERK

(SEAL)

MONARCH LANDING & MONARCH LANDING 2ND ADDITIONS



BENEFIT DISTRICT 
(ACTUAL ALIGNMENT TO BE
DETERMINED BY DESIGN ENGINEER)



RECEIVED

MAY 16 '08

PAVING PETITION
RIGHT & LEFT TURN LANE - 21ST STREET

CITY CLERK OFFICE

To the Mayor and City Council
Wichita, Kansas

Dear Council Members:

1. We, the undersigned owners of record as below designated, of Lots, Parcels, and Tracts of real property described as follows:

MONARCH LANDING ADDITION

Lot 39, Block 1;

MONARCH LANDING SECOND ADDITION

Lots 1 through 52, Block 1;

Lots 1 through 14, Block 2;

Lots 1 through 21, Block 3;

Lots 1 through 6, Block 4;

UNPLATTED RESIDENTIAL TRACT 1

BEGINNING at the northeast corner of Lot 1, Block 5, Monarch Landing Addition, an addition to Wichita, Sedgwick County, Kansas; thence along the north line of the Southeast Quarter of said Southeast Quarter on a Kansas coordinate system 1983 south zone bearing of N88°56'59"E, 806.11 feet to a point lying 60.00 feet west of the northeast corner of said Southeast Quarter of said Southeast Quarter; thence parallel with and 60.00 feet west of the east line of said Southeast Quarter, S00°38'46"E, 677.26 feet; thence S88°55'31"W, 730.00 feet; thence S01°04'29"E, 275.00 feet; thence S88°55'31"W, 354.03 feet; thence N37°18'14"W, 106.46 feet to point on an easterly line of said Monarch Landing Addition said point being on a curve to the left; thence along the easterly lines of said addition for the remaining nine (9) courses; thence along said curve to the left 182.95 feet to a reverse curve, said curve to the left having a central angle of 50°23'40", a radius of 208.00 feet, and a long chord distance of 177.11 feet, bearing N28°48'47"E; thence along said reverse curve 102.66 feet, said curve having a central angle of 15°59'03", a radius of 368.00 feet, and a long chord distance of 102.33 feet, bearing N11°36'28"E; thence S87°42'19"E, 128.47 feet; thence S73°24'04"E, 97.51 feet; thence N16°46'34"E, 120.09 feet to a point on a non-tangent curve to the right; thence along said curve 16.60 feet, said curve having a central angle of 01°47'51", a radius of 529.00 feet, and a long chord distance of 16.60 feet, bearing N76°07'04"W; thence N14°46'52"E, 58.00 feet; thence N01°03'01"W, 280.20 feet; thence S88°58'38"W, 22.83 feet; thence N01°01'22"W, 64.00 feet; thence N01°03'01"W, 131.86 feet to the **POINT OF BEGINNING**.

Said tract **CONTAINS**: 2,300,763 square feet or 52.82 acres of land, more or less.

do hereby petition, pursuant to the provisions of K.S.A. 12-6a01 et seq., as amended, as follows:

- (a) That there be constructed within the area described above, pavement of right and left turn lanes on 21st Street, from the west line of Lot 39, Block 1, Monarch Landing Addition to the east line of Lot 39, Block 1, Monarch Landing Addition. That said pavement between aforesaid limits be constructed with plans and specifications to be furnished by the City Engineer of the City of Wichita, Kansas. Drainage to be installed where necessary.

Monarch Landing Addition - Right & Left Turn Lane on 21st (School) Petition (Permanent)

GJA/cw 06201

Page 1

- (b) That the estimated and probable cost of the foregoing improvement is Ninety Five Thousand Dollars (\$95,000.00) exclusive of the cost of interest on borrowed money, with 100 percent payable by the improvement district. Said estimated cost as above set forth may be increased to include temporary interest or finance costs incurred during the course of design and construction of the project, and also may be increased at the pro rata rate of 1 percent per month from and after January 1, 2007.
- (c) That the land or area above described be constituted as an improvement district against which shall be assessed 100 percent of the total actual cost of the improvement for which the improvement district is liable.

If this improvement is abandoned, altered and/or constructed privately in part or whole that precludes building this improvement under the authority of this petition, any costs that the City of Wichita incurs shall be assessed to the property described above in accordance with the terms of the petition. In addition, if the improvement is abandoned at any state during the design and/or construction of the improvement or if it is necessary for the City of Wichita to redesign, repair or reconstruct the improvement after its initial design and/or construction because the design or construction does not meet the requirements of the City, then such costs associated with the redesign, repair or reconstruction of said improvement shall be assessed to the property described above in accordance with the terms of this petition.

- (d) That the method of assessment of all costs of the improvement for which the improvement district shall be liable shall be on a fractional basis. The fractional shares provided for herein have been determined on the basis of equal shares being assessed to lots or parcels of substantially comparable size and/or value:

Lot 39, Block 1; Monarch Landing Addition shall pay 8000/10,000 of the total cost payable by the improvement district. Lots 1 through 52, Block 1; Lots 1 through 14, Block 2; Lots 1 through 21, Block 3; and Lots 1 through 6, Block 4; Monarch Landing Second Addition shall each pay 16/10,000 of the total cost payable by the improvement district. The Unplatted Residential Tract 1 shall pay 512/10,000 of the total cost payable by the improvement district.

In the event all or part of the lots or parcels in the improvement district are replatted before assessments have been levied, the assessments against the replatted area shall be recalculated on the basis of the method of assessment set forth herein. Where the ownership of a single lot or tract is or may be divided into two or more parcels, the assessment to the lot or tract so divided shall be assessed to each ownership or parcel on a square foot basis.

Except when driveways are requested to serve a particular tract, lot, or parcel, the cost of said driveway shall be in addition to the assessment to said tract,

lot, or parcel and shall be in addition to the assessment for other improvements.

2. It is requested that the improvements hereby petitioned be made without notice and hearing, which but for this request, would be required by K.S.A. 12-6a04. This petition may be combined with other petitions of similar nature in order to form one public improvement project.

3. The petition is submitted pursuant to subsection (c) of K.S.A. 12-6a04, and amendments thereto and as owners of 100% of the properties proposed to be included in the improvement district, we acknowledge that the proposed improvement district does not include all properties which may be deemed to benefit from the proposed improvement.

4. That names may not be withdrawn from this petition by the signers thereof after the Governing body commences consideration of the petition or later than seven (7) days after filing, whichever comes first.

5. That when this petition has been filed with the City Clerk and it has been certified that the signatures thereon are according to the records of the Register of Deeds of Sedgwick County, Kansas, the petition may be found sufficient if signed by either (1) a majority of the resident owners of record of property liable for assessment under the proposal, or (2) the resident owners of record of more than one-half of the area liable for assessment under the proposal, or (3) the owners of record (whether resident or not) of more than one-half of the area liable for assessment under the proposal. The Governing Body is requested to proceed in the manner provided by statute to the end that the petitioned improvements may be expeditiously completed and placed in use.

WITNESS our signatures attached with respect to each of which is indicated the property owned and the date of signing.

| LEGAL DESCRIPTION | SIGNATURE | DATE |
|-------------------|-----------|------|
|-------------------|-----------|------|

MONARCH LANDING ADDITION

Lot 39, Block 1; Monarch Landing Addition, an addition to Wichita, Sedgwick County, Kansas.

UNIFIED SCHOOL DISTRICT NO. 385

By: _____

Mark Evans, Superintendent

WITNESS our signatures attached with respect to each of which is indicated the property owned and the date of signing.

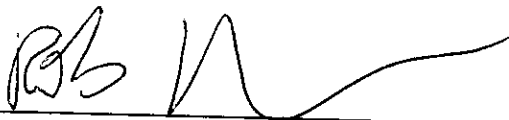
| LEGAL DESCRIPTION | SIGNATURE | DATE |
|-------------------|-----------|------|
|-------------------|-----------|------|

MONARCH LANDING SECOND ADDITION

Lots 1 through 52, Block 1; Lots 1 through 14, Block 2; Lots 1 through 21, Block 3; and Lots 1 through 6, Block 4; Monarch Landing Second Addition, an addition to Wichita, Sedgwick County, Kansas.

**MONARCH LANDING, LLC,
A Kansas Limited Liability Company**

By: _____



Rob Ramseyer, Vice President
Ritchie Development Corporation, Manager

WITNESS our signatures attached with respect to each of which is indicated the property owned and the date of signing.

| LEGAL DESCRIPTION | SIGNATURE | DATE |
|-------------------|-----------|------|
|-------------------|-----------|------|

UNPLATTED RESIDENTIAL TRACT 1

BEGINNING at the northeast corner of Lot 1, Block 5, Monarch Landing Addition, an addition to Wichita, Sedgwick County, Kansas; thence along the north line of the Southeast Quarter of said Southeast Quarter on a Kansas coordinate system 1983 south zone bearing of N88°56'59"E, 806.11 feet to a point lying 60.00 feet west of the northeast corner of said Southeast Quarter of said Southeast Quarter; thence parallel with and 60.00 feet west of the east line of said Southeast Quarter, S00°38'46"E, 677.26 feet; thence S88°55'31"W, 730.00 feet; thence S01°04'29"E, 275.00 feet; thence S88°55'31"W, 354.03 feet; thence N37°18'14"W, 106.46 feet to point on an easterly line of said Monarch Landing Addition said point being on a curve to the left; thence along the easterly lines of said addition for the remaining nine (9) courses; thence along said curve to the left 182.95 feet to a reverse curve, said curve to the left having a central angle of 50°23'40", a radius of 208.00 feet, and a long chord distance of 177.11 feet, bearing N28°48'47"E; thence along said reverse curve 102.66 feet, said curve having a central angle of 15°59'03", a radius of 368.00 feet, and a long chord distance of 102.33 feet, bearing N11°36'28"E; thence S87°42'19"E, 128.47 feet; thence S73°24'04"E, 97.51 feet; thence N16°46'34"E, 120.09 feet to a point on a non-tangent curve to the right; thence along said curve 16.60 feet, said curve having a central angle of 01°47'51", a radius of 529.00 feet, and a long chord distance of 16.60 feet, bearing N76°07'04"W; thence N14°46'52"E, 58.00 feet; thence N01°03'01"W, 280.20 feet; thence S88°58'38"W, 22.83 feet; thence N01°01'22"W, 64.00 feet; thence N01°03'01"W, 131.86 feet to the **POINT OF BEGINNING**.

Said tract **CONTAINS**: 2,300,763 square feet or 52.82 acres of land, more or less.

**MONARCH LANDING, LLC,
A Kansas Limited Liability Company**

By: _____



Rob Ramseyer, Vice President
Ritchie Development Corporation, Manager

AFFIDAVIT

The undersigned, being first duly sworn on his oath, states: That he circulated the attached petition and that the signatures thereon are the genuine signatures of the persons they purport to be to the best of his knowledge and belief, being signed either in the presences of the undersigned or in the presence of one of the resident owners whose signature appears on the petition.

MKEC Engineering Consultants, Inc.
Company

Cynthia A. Libmuck
Authorized Signature

411 N. Webb Road

Wichita, Kansas
Address

316-684-9600
Telephone

Sworn to and subscribed before me this 16 day of May 2008.



Janis Edwards
Deputy City Clerk

RECEIVED

MAY 16 '08

PAVING PETITION
159th Street

To the Mayor and City Council
Wichita, Kansas

CITY CLERK OFFICE

Dear Council Members:

1. We, the undersigned owners of record as below designated, of Lots, Parcels, and Tracts of real property described as follows:

MONARCH LANDING SECOND ADDITION

Lots 1 through 52, Block 1;
Lots 1 through 14, Block 2;
Lots 1 through 21, Block 3;
Lots 1 through 6, Block 4;

UNPLATTED RESIDENTIAL TRACT 1

172-84717
BEGINNING at the northeast corner of Lot 1, Block 5, Monarch Landing Addition, an addition to Wichita, Sedgwick County, Kansas; thence along the north line of the Southeast Quarter of said Southeast Quarter on a Kansas coordinate system 1983 south zone bearing of N88°56'59"E, 806.11 feet to a point lying 60.00 feet west of the northeast corner of said Southeast Quarter of said Southeast Quarter; thence parallel with and 60.00 feet west of the east line of said Southeast Quarter, S00°38'46"E, 677.26 feet; thence S88°55'31"W, 730.00 feet; thence S01°04'29"E, 275.00 feet; thence S88°55'31"W, 354.03 feet; thence N37°18'14"W, 106.46 feet to point on an easterly line of said Monarch Landing Addition said point being on a curve to the left; thence along the easterly lines of said addition for the remaining nine (9) courses; thence along said curve to the left 182.95 feet to a reverse curve, said curve to the left having a central angle of 50°23'40", a radius of 208.00 feet, and a long chord distance of 177.11 feet, bearing N28°48'47"E; thence along said reverse curve 102.66 feet, said curve having a central angle of 15°59'03", a radius of 368.00 feet, and a long chord distance of 102.33 feet, bearing N11°36'28"E; thence S87°42'19"E, 128.47 feet; thence S73°24'04"E, 97.51 feet; thence N16°46'34"E, 120.09 feet to a point on a non-tangent curve to the right; thence along said curve 16.60 feet, said curve having a central angle of 01°47'51", a radius of 529.00 feet, and a long chord distance of 16.60 feet, bearing N76°07'04"W; thence N14°46'52"E, 58.00 feet; thence N01°03'01"W, 280.20 feet; thence S88°58'38"W, 22.83 feet; thence N01°01'22"W, 64.00 feet; thence N01°03'01"W, 131.86 feet to the **POINT OF BEGINNING**.

do hereby petition, pursuant to the provisions of K.S.A. 12-6a01 et seq., as amended, as follows:

- (a) That there be constructed within the area described above, asphalt mat paving on the west half of 159th Street from 29th Street to a point 3000' south. That said pavement between aforesaid limits be constructed with plans and specifications to be furnished by the City Engineer of the City of Wichita, Kansas. Drainage to be constructed where necessary.
- (b) That the estimated and probable cost of the foregoing improvement is One Hundred Twenty Five Thousand Dollars (\$125,000.00) exclusive of the cost of interest on borrowed money, with 100 percent payable by the improvement district. Said estimated cost as above set forth may be increased to include

Monarch Landing Second Addition – Paving 159th Street Petition

GJA/cw 07165

Page 1

temporary interest or finance costs incurred during the course of design and construction of the project, and also may be increased at the pro rata rate of 1 percent per month from and after May 1, 2008.

- (c) That the land or area above described be constituted as an improvement district against which shall be assessed 100 percent of the total actual cost of the improvement for which the improvement district is liable.

If this improvement is abandoned, altered and/or constructed privately in part or whole that precludes building this improvement under the authority of this petition, any costs that the City of Wichita incurs shall be assessed to the property described above in accordance with the terms of the petition. In addition, if the improvement is abandoned at any state during the design and/or construction of the improvement or if it is necessary for the City of Wichita to redesign, repair or reconstruct the improvement after its initial design and/or construction because the design or construction does not meet the requirements of the City, then such costs associated with the redesign, repair or reconstruction of said improvement shall be assessed to the property described above in accordance with the terms of this petition.

- (d) That the method of assessment of all costs of the improvement for which the improvement district shall be liable shall be on a fractional basis. The fractional shares provided for herein have been determined on the basis of equal shares being assessed to lots or parcels of substantially comparable size and/or value:

Lots 1 through 12, and 14 through 29, Block 1; and Lots 11 through 21, Block 3; Monarch Landing Second Addition shall each pay 46/10,000 of the total cost payable by the improvement district. Lots 13, and 30 through 52, Block 1; Lots 1 through 14, Block 2; Lots 1 through 10, Block 3; and Lots 1 through 6, Block 4; Monarch Landing Second Addition shall each pay 150/10,000 of the total cost payable by the improvement district. The Unplatted Residential Tract 1 shall pay 105/10,000 of the total cost payable by the improvement district.

In the event all or part of the lots or parcels in the improvement district are replatted before assessments have been levied, the assessments against the replatted area shall be recalculated on the basis of the method of assessment set forth herein. Where the ownership of a single lot or tract is or may be divided into two or more parcels, the assessment to the lot or tract so divided shall be assessed to each ownership or parcel on a square foot basis.

Except when driveways are requested to serve a particular tract, lot, or parcel, the cost of said driveway shall be in addition to the assessment to said tract, lot, or parcel and shall be in addition to the assessment for other

improvements.

2. It is requested that the improvements hereby petitioned be made without notice and hearing, which but for this request, would be required by K.S.A. 12-6a04. This petition may be combined with other petitions of similar nature in order to form one public improvement project.

3. The petition is submitted pursuant to subsection (c) of K.S.A. 12-6a04, and amendments thereto and as owners of 100% of the properties proposed to be included in the improvement district, we acknowledge that the proposed improvement district does not include all properties which may be deemed to benefit from the proposed improvement.

4. That names may not be withdrawn from this petition by the signers thereof after the Governing body commences consideration of the petition or later than seven (7) days after filing, whichever comes first.

5. That when this petition has been filed with the City Clerk and it has been certified that the signatures thereon are according to the records of the Register of Deeds of Sedgwick County, Kansas, the petition may be found sufficient if signed by either (1) a majority of the resident owners of record of property liable for assessment under the proposal, or (2) the resident owners of record of more than one-half of the area liable for assessment under the proposal, or (3) the owners of record (whether resident or not) of more than one-half of the area liable for assessment under the proposal. The Governing Body is requested to proceed in the manner provided by statute to the end that the petitioned improvements may be expeditiously completed and placed in use.

WITNESS our signatures attached with respect to each of which is indicated the property owned and the date of signing.

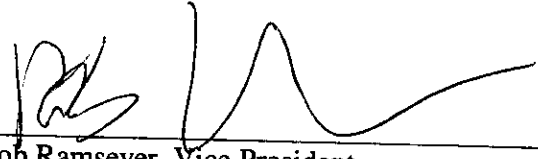
| LEGAL DESCRIPTION | SIGNATURE | DATE |
|-------------------|-----------|------|
|-------------------|-----------|------|

MONARCH LANDING SECOND ADDITION

Lots 1 through 52, Block 1; Lots 1 through 14, Block 2; Lots 1 through 21, Block 3; and Lots 1 through 6, Block 4; Monarch Landing Second Addition, an addition to Wichita, Sedgwick County, Kansas.

**MONARCH LANDING, LLC,
A Kansas Limited Liability Company**

By: _____


Rob Ramseyer, Vice President
Ritchie Development Corporation, Manager

WITNESS our signatures attached with respect to each of which is indicated the property owned and the date of signing.

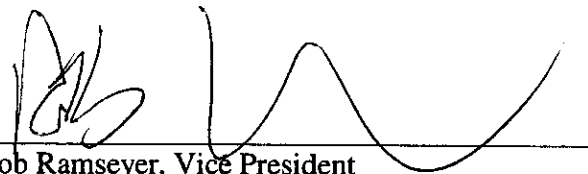
| LEGAL DESCRIPTION | SIGNATURE | DATE |
|-------------------|-----------|------|
|-------------------|-----------|------|

UNPLATTED RESIDENTIAL TRACT 1

BEGINNING at the northeast corner of Lot 1, Block 5, Monarch Landing Addition, an addition to Wichita, Sedgwick County, Kansas; thence along the north line of the Southeast Quarter of said Southeast Quarter on a Kansas coordinate system 1983 south zone bearing of N88°56'59"E, 806.11 feet to a point lying 60.00 feet west of the northeast corner of said Southeast Quarter of said Southeast Quarter; thence parallel with and 60.00 feet west of the east line of said Southeast Quarter, S00°38'46"E, 677.26 feet; thence S88°55'31"W, 730.00 feet; thence S01°04'29"E, 275.00 feet; thence S88°55'31"W, 354.03 feet; thence N37°18'14"W, 106.46 feet to point on an easterly line of said Monarch Landing Addition said point being on a curve to the left; thence along the easterly lines of said addition for the remaining nine (9) courses; thence along said curve to the left 182.95 feet to a reverse curve, said curve to the left having a central angle of 50°23'40", a radius of 208.00 feet, and a long chord distance of 177.11 feet, bearing N28°48'47"E; thence along said reverse curve 102.66 feet, said curve having a central angle of 15°59'03", a radius of 368.00 feet, and a long chord distance of 102.33 feet, bearing N11°36'28"E; thence S87°42'19"E, 128.47 feet; thence S73°24'04"E, 97.51 feet; thence N16°46'34"E, 120.09 feet to a point on a non-tangent curve to the right; thence along said curve 16.60 feet, said curve having a central angle of 01°47'51", a radius of 529.00 feet, and a long chord distance of 16.60 feet, bearing N76°07'04"W; thence N14°46'52"E, 58.00 feet; thence N01°03'01"W, 280.20 feet; thence S88°58'38"W, 22.83 feet; thence N01°01'22"W, 64.00 feet; thence N01°03'01"W, 131.86 feet to the **POINT OF BEGINNING**.

**MONARCH LANDING, LLC,
A Kansas Limited Liability Company**

By:



Rob Ramsey, Vice President
Ritchie Development Corporation, Manager

AFFIDAVIT

The undersigned, being first duly sworn on his oath, states: That he circulated the attached petition and that the signatures thereon are the genuine signatures of the persons they purport to be to the best of his knowledge and belief, being signed either in the presences of the undersigned or in the presence of one of the resident owners whose signature appears on the petition.

MKEC Engineering Consultants, Inc.
Company

Cynthia A. Webb
Authorized Signature

411 N. Webb Road

Wichita, Kansas
Address

316-684-9600
Telephone

Sworn to and subscribed before me this 16 day of May 2008.

Ann Edwards
Deputy City Clerk



RECEIVED

MAY 16 '08

POND PETITION

To the Mayor and City Council
Wichita, Kansas

CITY CLERK OFFICE

Dear Council Members:

1. We, the undersigned owners of record as below designated, of Lots, Parcels, and Tracts of real property described as follows:

MONARCH LANDING ADDITION

Lots 1 through 39, Block 1;
Lots 1 through 20, Block 2;
Lots 1 & 2, Block 3;
Lots 1 & 2, Block 4;
Lots 1 through 5, Block 5;

MONARCH LANDING SECOND ADDITION

Lots 13, and 30 through 52, Block 1;
Lots 1 through 14, Block 2;
Lots 1 through 10, Block 3;
Lots 1 through 6, Block 4;

do hereby petition pursuant to the provisions of K.S.A. 12-6a01 et seq., as amended, as follows:

- (a) That there be constructed ponds to serve the area described above, according to plans and specifications to be furnished by the City Engineer of the City of Wichita, Kansas.
- (b) That the estimated and probable cost of the foregoing improvements is Two Hundred Eighty Six Thousand Dollars (\$286,000.00), exclusive of the cost of interest on borrowed money, with 100 percent payable by the improvement district. Said estimated cost as above set forth may be increased to include temporary interest or finance costs incurred during the course of design and construction of the project, and also may be increased at the pro rata rate of 1 percent per month from and after January 1, 2007.
- (c) That the land or area above described be constituted as an improvement district against which shall be assessed 100 percent of the total actual cost of the improvement for which the improvement district is liable.

If this improvement is abandoned, altered and/or constructed privately in part or whole that precludes building this improvement under the authority of this petition, any costs that the City of Wichita incurs shall be assessed to the property described above in accordance with the terms of the petition. In addition, if the improvement is abandoned at any state during the design

and/or construction of the improvement or if it is necessary for the City of Wichita to redesign, repair or reconstruct the improvement after its initial design and/or construction because the design or construction does not meet the requirements of the City, then such costs associated with the redesign, repair or reconstruction of said improvement shall be assessed to the property described above in accordance with the terms of this petition.

- (d) That the method of assessment of all costs of the improvement for which the improvement district shall be liable shall be on a fractional basis. The fractional shares provided for herein have been determined on the basis of equal shares being assessed to lots or parcels of substantially comparable size and/or value:


Lots 1 through 38, Block 1; Lots 1 through 20, Block 2; and Lots 1 through 5, Block 5; Monarch Landing Addition shall each pay 79/10,000 of the total cost payable by the improvement district. Lots 1 & 2, Block 3; Lots 1 & 2, Block 4; Monarch Landing Addition shall each pay 78/10,000 of the total cost payable by the improvement district. Lot 39, Block 1; Monarch Landing Addition shall pay 1417/10,000 of the total cost payable by the improvement district. Lots 13 and 30 through 52, Block 1; Lots 1 through 14, Block 2; Lots 1 through 10, Block 3; and Lots 1 through 6, Block 4; Monarch Landing Second Addition shall each pay 61/10,000 of the total cost payable by the improvement district.

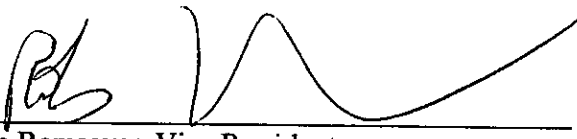
In the event all or part of the lots or parcels in the improvement district are replatted before assessments have been levied, the assessments against the replatted area shall be recalculated on the basis of the method of assessment set forth herein. Where the ownership of a single lot is or may be divided into two or more parcels, the assessment to the lot so divided shall be assessed to each ownership or parcel on a square foot basis.

2. (a) It is requested that the improvement hereby petitioned be made without notice and hearing, which, but for this request, would be required by K.S.A. 12-6a04. This petition may be combined with other petitions of similar nature in order to form one public improvement project.
- (b) Signatures on this petition are made with full knowledge and understanding that said signatures constitute a waiver of the limitations contained in K.S.A. 13-1013, which appear to limit the assessment for a lateral sewer to not more than one lateral sewer.
3. The petition is submitted pursuant to subsection (c) of K.S.A. 12-6a04, and amendments thereto and as owners of 100% of the properties proposed to be included in the improvement district, we acknowledge that the proposed improvement district does not include all properties which may be deemed to benefit from the proposed improvement.

4. That names may not be withdrawn from this petition by the signers thereof after the Governing Body commences consideration of the petition or later than seven (7) days after filing, whichever occurs first.
5. That when this petition has been filed with the City Clerk and it has been certified that the signatures thereon are according to the records of the Register of Deeds of Sedgwick County, Kansas, the petition may be found sufficient if signed by either (1) a majority of the resident owners of record of property liable for assessment under the proposal, or (2) the resident owners of record of more than one-half of the area liable for assessment under the proposal, or (3) the owners of record (whether resident or not) of more than one-half of the area liable for assessment under the proposal. The Governing Body is requested to proceed in the manner provided by statute to the end that the petitioned improvements may be expeditiously completed and placed in use if and when such improvements are necessary to serve any building that may be constructed on the real property after the date on this petition.

WITNESS our signatures attached with respect to each of which is indicated the property owned and the date of signing.

| LEGAL DESCRIPTION | SIGNATURE | DATE |
|--|--|------|
| <u>MONARCH LANDING ADDITION</u> Lots 11, 24-27, 29-30, & 32, Block 1; Lots 1, 3-6, 18 & 20 Block 2; Lot 1, Block 3; Monarch Landing Addition, an addition to Wichita, Sedgwick County, Kansas. | MONARCH LANDING, LLC, A Kansas Limited Liability Company  By: _____ Rob Ramseyer, Vice President Ritchie Development Corporation, Manager | |

| LEGAL DESCRIPTION | SIGNATURE | DATE |
|---|--|------|
| <u>MONARCH LANDING SECOND ADDITION</u> Lots 13 and 30 through 52, Block 1; Lots 1 through 14, Block 2; Lots 1 through 10, Block 3; and Lots 1 through 6, Block 4; Monarch Landing Second Addition, an addition to Wichita, Sedgwick County, Kansas. | MONARCH LANDING, LLC, A Kansas Limited Liability Company  By: _____ Rob Ramseyer, Vice President Ritchie Development Corporation, Manager | |

WITNESS our signatures attached with respect to each of which is indicated the property owned and the date of signing.

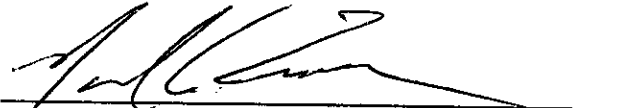
| LEGAL DESCRIPTION | SIGNATURE | DATE |
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MONARCH LANDING ADDITION

Lot 39, Block 1; Monarch Landing Addition, an addition to Wichita, Sedgwick County, Kansas.

UNIFIED SCHOOL DISTRICT NO. 385

By: _____


Mark Evans, Superintendent

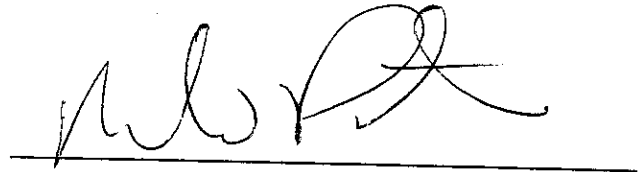
WITNESS our signatures attached with respect to each of which is indicated the property owned and the date of signing.

| LEGAL DESCRIPTION | SIGNATURE | DATE |
|-------------------|-----------|------|
|-------------------|-----------|------|

MONARCH LANDING ADDITION

Lot 1, Block 1; and Lots 7 & 14, Block 2;
Monarch Landing Addition, an addition to
Wichita, Sedgwick County, Kansas.

PORTER HOMES

A handwritten signature in black ink, appearing to be "P. Homes", written over a horizontal line.

WITNESS our signatures attached with respect to each of which is indicated the property owned and the date of signing.

| LEGAL DESCRIPTION | SIGNATURE | DATE |
|-------------------|-----------|------|
|-------------------|-----------|------|

MONARCH LANDING ADDITION

Lots 2, 9, & 15, Block 1; and Lot 2, Block 5;
Monarch Landing Addition, an addition to
Wichita, Sedgwick County, Kansas.

BLUE CUSTOM HOMES




WITNESS our signatures attached with respect to each of which is indicated the property owned and the date of signing.

| LEGAL DESCRIPTION | SIGNATURE | DATE |
|-------------------|-----------|------|
|-------------------|-----------|------|

MONARCH LANDING ADDITION

Lots 3, 8, 10, 12, & 38, Block 1; Lot 2, Block 2;
Lot 2, Block 3; and Lot 1, Block 5; Monarch
Landing Addition, an addition to Wichita,
Sedgwick County, Kansas.

INK-DRUMRIGHT



A handwritten signature in black ink, appearing to read 'M. Drumright', is written over a horizontal line.

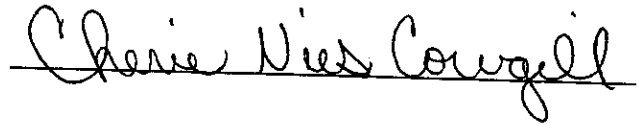
WITNESS our signatures attached with respect to each of which is indicated the property owned and the date of signing.

| LEGAL DESCRIPTION | SIGNATURE | DATE |
|-------------------|-----------|------|
|-------------------|-----------|------|

MONARCH LANDING ADDITION

Lots 4, 17, 35, & 37, Block 1; and Lots 8 & 13,
Block 2; Monarch Landing Addition, an addition
to Wichita, Sedgwick County, Kansas.

NIES HOMES



WITNESS our signatures attached with respect to each of which is indicated the property owned and the date of signing.

| LEGAL DESCRIPTION | SIGNATURE | DATE |
|-------------------|-----------|------|
|-------------------|-----------|------|

MONARCH LANDING ADDITION

Lots 5, 7, & 13, Block 1; Lots 10, 11, 15, & 17, Block 2; Lot 2, Block 4; and Lot 3, Block 5; Monarch Landing Addition, an addition to Wichita, Sedgwick County, Kansas.

C. SHARP HOMES



WITNESS our signatures attached with respect to each of which is indicated the property owned and the date of signing.

| LEGAL DESCRIPTION | SIGNATURE | DATE |
|---|-------------------------|------|
| <u>MONARCH LANDING ADDITION</u> Lot 6, Block 1; Monarch Landing Addition, an addition to Wichita, Sedgwick County, Kansas. | BRANDON TIDEMANN | |

WITNESS our signatures attached with respect to each of which is indicated the property owned and the date of signing.

| LEGAL DESCRIPTION | SIGNATURE | DATE |
|--|---|------|
| <u>MONARCH LANDING ADDITION</u> Lot 16, Block 1; Monarch Landing Addition, an addition to Wichita, Sedgwick County, Kansas. | CORY & AMY WILGERS _____ _____ | |

WITNESS our signatures attached with respect to each of which is indicated the property owned and the date of signing.

| LEGAL DESCRIPTION | SIGNATURE | DATE |
|--|---|------|
| <u>MONARCH LANDING ADDITION</u> Lot 18, Block 1; Monarch Landing Addition, an addition to Wichita, Sedgwick County, Kansas. | PRESTON & CARIE BORCHERS _____ _____ | |

WITNESS our signatures attached with respect to each of which is indicated the property owned and the date of signing.

| LEGAL DESCRIPTION | SIGNATURE | DATE |
|--|---|------|
| <u>MONARCH LANDING ADDITION</u> Lot 19, Block 1; Monarch Landing Addition, an addition to Wichita, Sedgwick County, Kansas. | CHRISTOPHER & AMANDA FLEMING _____ _____ | |

WITNESS our signatures attached with respect to each of which is indicated the property owned and the date of signing.

| LEGAL DESCRIPTION | SIGNATURE | DATE |
|--|---------------------------|------|
| <u>MONARCH LANDING ADDITION</u> Lot 20, Block 1; Monarch Landing Addition, an addition to Wichita, Sedgwick County, Kansas. | MUHAMMAD A. RAHMAN | |

WITNESS our signatures attached with respect to each of which is indicated the property owned and the date of signing.

| LEGAL DESCRIPTION | SIGNATURE | DATE |
|-------------------|-----------|------|
|-------------------|-----------|------|

MONARCH LANDING ADDITION

Lot 23, Block 1; Monarch Landing Addition, an addition to Wichita, Sedgwick County, Kansas.

BEN & MISTY MCDAVITT

WITNESS our signatures attached with respect to each of which is indicated the property owned and the date of signing.

| LEGAL DESCRIPTION | SIGNATURE | DATE |
|--|------------------------|------|
| <u>MONARCH LANDING ADDITION</u> Lot 12, Block 2; Monarch Landing Addition, an addition to Wichita, Sedgwick County, Kansas. | DEBRA A. FARRIS | |

WITNESS our signatures attached with respect to each of which is indicated the property owned and the date of signing.

| <u>LEGAL DESCRIPTION</u> | <u>SIGNATURE</u> | <u>DATE</u> |
|--|------------------------|-------------|
| <u>MONARCH LANDING ADDITION</u> Lot 19, Block 2; Monarch Landing Addition, an addition to Wichita, Sedgwick County, Kansas. | DEVIN W. HANSEN | |

WITNESS our signatures attached with respect to each of which is indicated the property owned and the date of signing.

| LEGAL DESCRIPTION | SIGNATURE | DATE |
|---|--|------|
| <u>MONARCH LANDING ADDITION</u> Lot 4, Block 5; Monarch Landing Addition, an addition to Wichita, Sedgwick County, Kansas. | P. WARD/BERGMEIRE REV. LIV. TRUST | |

WITNESS our signatures attached with respect to each of which is indicated the property owned and the date of signing.

| LEGAL DESCRIPTION | SIGNATURE | DATE |
|---|-------------------------------|------|
| <u>MONARCH LANDING ADDITION</u> Lot 5, Block 5; Monarch Landing Addition, an addition to Wichita, Sedgwick County, Kansas. | LINH & QUOC NGUYEN | |
| | | |
| | | |

AFFIDAVIT

The undersigned, being first duly sworn on his oath, states: That he circulated the attached petition and that the signatures thereon are the genuine signatures of the persons they purport to be to the best of his knowledge and belief, being signed either in the presences of the undersigned or in the presence of one of the resident owners whose signature appears on the petition.

MKEC Engineering Consultants, Inc.
Company

Cynthia A. Wmack
Authorized Signature

411 N. Webb Road

Wichita, Kansas
Address

316-684-9600
Telephone

Sworn to and subscribed before me this 16 day of May 2008.

James Edwards
Deputy City Clerk



City of Wichita
City Council Meeting
July 22, 2008

TO: Mayor and City Council Members

SUBJECT: Petitions to construct Paving and Drainage Improvements for Monarch Landing Additions (north of 21st, west of 159th St. East) (District II)

INITIATED BY: Department of Public Works

AGENDA: Consent

Recommendation: Approve the new Petitions.

Background: On February 13, 2007 and May 13, 2008, the City Council approved Petitions to construct paving and drainage improvements for Monarch Landing 1st and 2nd Additions. The developer has submitted new Petitions that reallocate special assessments within the improvement districts to reflect current marketing conditions. The signatures on the paving petitions represent 100% of the improvement districts. The signatures on the drainage Petition represent 86 of 122 lots in the improvement district. The assessments to the non-signers' property have not been increased.

Analysis: The projects serve new residential development located north of 21st, west of 159th St. East.

Financial Considerations: The project budgets are unchanged.

Goal Impact: This project will address the Efficient Infrastructure goal by providing paving and drainage improvements for new residential development.

Legal Considerations: State Statutes provide that a Petition is valid if signed by a majority of resident property owners or owners of a majority of property in the improvement district.

Recommendations/Actions: It is recommended that the City Council approve the new Petitions, adopt the Resolutions and authorize the necessary signatures.

Attachments: Map, Petitions and Resolutions.

First Published in the Wichita Eagle on

RESOLUTION NO. _____

RESOLUTION OF FINDINGS OF ADVISABILITY AND RESOLUTION AUTHORIZING CONSTRUCTING **RIGHT AND LEFT TURN LANES ON 21ST ST., FROM THE WEST LINE OF LOT 39, BLOCK 1, MONARCH LANDING ADDITION TO THE EAST LINE OF LOT 39, BLOCK 1, MONARCH LANDING ADDITION (NORTH OF 21ST, WEST OF 159TH ST. EAST) 472-85424** IN THE CITY OF WICHITA, KANSAS, PURSUANT TO FINDINGS OF ADVISABILITY MADE BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS.

BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS, THAT THE FOLLOWING FINDINGS AS TO THE ADVISABILITY OF AUTHORIZING CONSTRUCTING **RIGHT AND LEFT TURN LANES ON 21ST ST., FROM THE WEST LINE OF LOT 39, BLOCK 1, MONARCH LANDING ADDITION TO THE EAST LINE OF LOT 39, BLOCK 1, MONARCH LANDING ADDITION (NORTH OF 21ST, WEST OF 159TH ST. EAST) 472-85424** IN THE CITY OF WICHITA, KANSAS, ARE HEREBY MADE TO-WIT:

SECTION 1. That Resolution No. **07-113** adopted on **February 13, 2008** is hereby rescinded.

SECTION 2. That it is necessary and in the public interest to authorize constructing **right and left turn lanes on 21st St., from the west line of Lot 39, Block 1, Monarch Landing Addition to the east line of Lot 39, Block 1, Monarch Landing Addition (north of 21st, west of 159th St. East) 472-85424.**

Said pavement shall be constructed of the material in accordance with plans and specifications provided by the City Engineer.

SECTION 3. That the cost of said improvements provided for in Section 1 hereof is estimated to **Ninety-Five Thousand Dollars (\$95,000)** exclusive of the cost of interest on borrowed money, with **100** percent payable by the improvement district. Said estimated cost as above set forth is hereby increased at the pro-rata rate of 1 percent per month from and after **January 1, 2007** exclusive of the costs of temporary financing.

SECTION 4. That all costs of said improvements attributable to the improvement district, when ascertained, shall be assessed against the land lying within the improvement district described as follows:

MONARCH LANDING ADDITION

Lot 39, Block 1

MONARCH LANDING SECOND ADDITION

Lots 1 through 52, Block 1

Lots 1 through 14, Block 2

Lots 1 through 21, Block 3

Lots 1 through 6, Block 4

UNPLATTED RESIDENTIAL TRACT 1

BEGINNING at the northeast corner of Lot 1, Block 5, Monarch Landing Addition, an addition to Wichita, Sedgwick County, Kansas; thence along the north line of the Southeast Quarter of said Southeast Quarter on a Kansas coordinate system 1983 south zone bearing of N88°56'59"E, 806.11 feet to a point lying 60.00 feet west of the northeast corner of said Southeast Quarter of said Southeast Quarter; thence parallel with and 60.00 feet west of the east line of said Southeast Quarter, S00°38'46"E, 677.26 feet; thence S88°55'31"W, 730.00 feet; thence S01°04'29"E, 275.00 feet; thence S88°55'31"W, 354.03 feet; thence N37°18'14"W, 106.46 feet to point on an easterly line of said Monarch Landing Addition said point being on a curve to the left; thence along the easterly lines of said addition for the remaining nine (9) courses; thence along said curve to the left 182.95 feet to a reverse curve, said curve to the left having a central angle of 50°23'40", a radius of 208.00 feet, and a long chord distance of 177.11 feet, bearing N28°48'47"E; thence along said reverse curve 102.66 feet, said curve having a central angle of 15°59'03", a radius of 368.00 feet, and a long chord distance of 102.33 feet, bearing N11°36'28"E; thence S87°42'19"E, 128.47 feet; thence S73°24'04"E, 97.51 feet; thence N16°46'34"E, 120.09 feet to a point on a non-tangent curve to the right; thence along said curve 16.60 feet, said curve having a central angle of 01°47'51", a radius of 529.00 feet, and a long chord distance of 16.60 feet, bearing N76°07'04"W; thence N14°46'52"E, 58.00 feet; thence N01°03'01"W, 280.20 feet; thence S88°58'38"W, 22.83 feet; thence N01°01'22"W, 64.00 feet; thence N01°03'01"W, 131.86 feet to the **POINT OF BEGINNING**.

Said tract **CONTAINS:** 2,300,763 square feet or 52.82 acres of land, more or less.

SECTION 5. That the method of apportioning all costs of said improvements attributable to the improvement district to the owners of land liable for assessment therefore shall be on a **fractional** basis.

That the method of assessment of all costs of the improvement for which the improvement district shall be liable shall be on a fractional basis. The fractional shares provided for herein have been determined on the basis of equal shares being assessed to lots or parcels of substantially comparable size and/or value: Lot 39,

Block 1; MONARCH LANDING ADDITION shall pay 8000/10,000 of the total cost payable by the improvement district. Lots 1 through 52, Block 1; Lots 1 through 14, Block 2; Lots 1 through 21, Block 3; and Lots 1 through 6, Block 4; MONARCH LANDING SECOND ADDITION shall each pay 16/10,000 of the total cost payable by the improvement district. THE UNPLATTED RESIDENTIAL TRACT 1 shall pay 512/10,000 of the total cost payable by the improvement district.

In the event all or part of the lots or parcels in the improvement district are replatted before assessments have been levied, the assessments against the replatted area shall be recalculated on the basis of the method of assessment set forth herein. Where the ownership of a single lot is or may be divided into two or more parcels, the assessment to the lot so divided shall be assessed to each ownership or parcel on a square foot basis.

SECTION 6. That payment of said assessments may indefinitely be deferred as against those property owners eligible for such deferral available through the Special Assessment Deferral Program.

SECTION 7. That the City Engineer shall prepare plans and specifications for said improvement and a preliminary estimate of cost therefore, which plans, specifications, and a preliminary estimate of cost shall be presented to this Body for its approval.

SECTION 8. Whereas, the Governing Body of the City, upon examination thereof, considered, found and determined the Petition to be sufficient, having been signed by the owners of record, whether resident or not, of more than Fifty Percent (50%) of the property liable for assessment for the costs of the improvement requested thereby; the advisability of the improvements set forth above is hereby established as authorized by K.S.A. 12-6a01 et seq., as amended.

SECTION 9. Be it further resolved that the above-described improvement is hereby authorized and declared to be necessary in accordance with the findings of the Governing Body as set out in this resolution.

SECTION 10. That the City Clerk shall make proper publication of this resolution, which shall be published once in the official City paper and which shall be effective from and after said publication.

PASSED by the governing body of the City of Wichita, Kansas this _____ day of _____, 2008.

CARL BREWER, MAYOR

ATTEST:

KAREN SUBLETT, CITY CLERK

(SEAL)

First Published in the Wichita Eagle on

RESOLUTION NO. _____

RESOLUTION OF FINDINGS OF ADVISABILITY AND RESOLUTION AUTHORIZING CONSTRUCTING ASPHALT MAT PAVING ON THE WEST HALF OF 159TH STREET EAST FROM 29TH STREET NORTH TO A POINT 3000' SOUTH (NORTH OF 21ST, WEST OF 159TH ST. EAST) 472-84717 IN THE CITY OF WICHITA, KANSAS, PURSUANT TO FINDINGS OF ADVISABILITY MADE BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS.

BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS, THAT THE FOLLOWING FINDINGS AS TO THE ADVISABILITY OF AUTHORIZING CONSTRUCTING ASPHALT MAT PAVING ON THE WEST HALF OF 159TH STREET EAST FROM 29TH STREET NORTH TO A POINT 3000' SOUTH (NORTH OF 21ST, WEST OF 159TH ST. EAST) 472-84717 IN THE CITY OF WICHITA, KANSAS, ARE HEREBY MADE TO-WIT:

SECTION 1. That Resolution **No. 08-257** adopted on **May 13, 2008** is hereby rescinded.

SECTION 2. That it is necessary and in the public interest to authorize constructing **asphalt mat paving on the west half of 159th Street East from 29th Street North to a point 3000' south (north of 21st, west of 159th St. East) 472-84717.**

Said pavement shall be constructed of the material in accordance with plans and specifications provided by the City Engineer.

SECTION 3. That the cost of said improvements provided for in Section 2 hereof is estimated to **One Hundred Twenty-Five Thousand Dollars (\$125,000)** exclusive of the cost of interest on borrowed money, with **100** percent payable by the improvement district. Said estimated cost as above set forth is hereby increased at the pro-rata rate of 1 percent per month from and after **May 1, 2008** exclusive of the costs of temporary financing.

SECTION 4. That all costs of said improvements attributable to the improvement district, when ascertained, shall be assessed against the land lying within the improvement district described as follows:

MONARCH LANDING SECOND ADDITION

Lots 1 through 52, Block 1

Lots 1 through 14, Block 2

Lots 1 through 21, Block 3

Lots 1 through 6, Block 4

UNPLATTED RESIDENTIAL TRACT 1

BEGINNING at the northeast corner of Lot 1, Block 5, Monarch Landing Addition, an addition to Wichita, Sedgwick County, Kansas; thence along the north line of the Southeast Quarter of said Southeast Quarter on a Kansas coordinate system 1983 south zone bearing of N88°56'59"E, 806.11 feet to a point lying 60.00 feet west of the northeast corner of said Southeast Quarter of said Southeast Quarter; thence parallel with and 60.00 feet west of the east line of said Southeast Quarter, S00°38'46"E, 677.26 feet; thence S88°55'31"W, 730.00 feet; thence S01°04'29"E, 275.00 feet; thence S88°55'31"W, 354.03 feet; thence N37°18'14"W, 106.46 feet to point on an easterly line of said Monarch Landing Addition said point being on a curve to the left; thence along the easterly lines of said addition for the remaining nine (9) courses; thence along said curve to the left 182.95 feet to a reverse curve, said curve to the left having a central angle of 50°23'40", a radius of 208.00 feet, and a long chord distance of 177.11 feet, bearing N28°48'47"E; thence along said reverse curve 102.66 feet, said curve having a central angle of 15°59'03", a radius of 368.00 feet, and a long chord distance of 102.33 feet, bearing N11°36'28"E; thence S87°42'19"E, 128.47 feet; thence S73°24'04"E, 97.51 feet; thence N16°46'34"E, 120.09 feet to a point on a non-tangent curve to the right; thence along said curve 16.60 feet, said curve having a central angle of 01°47'51", a radius of 529.00 feet, and a long chord distance of 16.60 feet, bearing N76°07'04"W; thence N14°46'52"E, 58.00 feet; thence N01°03'01"W, 280.20 feet; thence S88°58'38"W, 22.83 feet; thence N01°01'22"W, 64.00 feet; thence N01°03'01"W, 131.86 feet to the **POINT OF BEGINNING**.

SECTION 5. That the method of apportioning all costs of said improvements attributable to the improvement district to the owners of land liable for assessment therefore shall be on a **fractional** basis.

The fractional shares provided for herein have been determined on the basis of equal shares being assessed to lots or parcels of substantially comparable size and/or value: Lots 1 through 12, and 14 through 29, Block 1; and Lots 11 through 21, Block 3; MONARCH LANDING SECOND ADDITION shall each pay 46/10,000 of the total cost payable by the improvement district. Lots 13, and 30 through 52, Block 1; Lots 1 through 14, Block 2; Lots 1 through 10, Block 3; and Lots 1 through 6, Block 4; MONARCH LANDING SECOND ADDITION shall each pay 150/10,000 of the total cost payable by the improvement district. THE UNPLATTED RESIDENTIAL TRACT 1 shall pay 105/10,000 of the total cost payable by the improvement district.

In the event all or part of the lots or parcels in the improvement district are replatted before assessments have been levied, the assessments against the replatted area shall be recalculated on the basis of the method of assessment set forth herein. Where the ownership of a single lot or tract is or may be divided into two or more parcels, the assessment to the lot or tract

so divided shall be assessed to each ownership or parcel on a square foot basis. Except when driveways are requested to serve a particular tract, lot or parcel, the cost of said driveway shall be in addition to the assessment to said tract, lot, or parcel and shall be in addition to the assessment for other improvements.

SECTION 6. That payment of said assessments may indefinitely be deferred as against those property owners eligible for such deferral available through the Special Assessment Deferral Program.

SECTION 7. That the City Engineer shall prepare plans and specifications for said improvement and a preliminary estimate of cost therefore, which plans, specifications, and a preliminary estimate of cost shall be presented to this Body for its approval.

SECTION 8. Whereas, the Governing Body of the City, upon examination thereof, considered, found and determined the Petition to be sufficient, having been signed by the owners of record, whether resident or not, of more than Fifty Percent (50%) of the property liable for assessment for the costs of the improvement requested thereby; the advisability of the improvements set forth above is hereby established as authorized by K.S.A. 12-6a01 et seq., as amended.

SECTION 9. Be it further resolved that the above-described improvement is hereby authorized and declared to be necessary in accordance with the findings of the Governing Body as set out in this resolution.

SECTION 10. That the City Clerk shall make proper publication of this resolution, which shall be published once in the official City paper and which shall be effective from and after said publication.

PASSED by the governing body of the City of Wichita, Kansas, this ____ day of _____, 2008.

CARL BREWER, MAYOR

ATTEST:

KAREN SUBLETT, CITY CLERK

(SEAL)

First Published in the Wichita Eagle on

RESOLUTION NO. _____

RESOLUTION OF FINDINGS OF ADVISABILITY AND RESOLUTION AUTHORIZING IMPROVING **STORM WATER DRAIN NO. 317 (NORTH OF 21ST, WEST OF 159TH ST. EAST) 468-84318** IN THE CITY OF WICHITA, KANSAS, PURSUANT TO FINDINGS OF ADVISABILITY MADE BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS.

BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS, THAT THE FOLLOWING FINDINGS AS TO THE ADVISABILITY OF IMPROVING **STORM WATER DRAIN NO. 317 (NORTH OF 21ST, WEST OF 159TH ST. EAST) 468-84318** IN THE CITY OF WICHITA, KANSAS, ARE HEREBY MADE TO-WIT:

SECTION 1. That Resolution No. **07-110** adopted on **February 13, 2007** is hereby rescinded.

SECTION 2. That it is necessary and in the public interest to improve **Storm Water Drain No. 317 (north of 21st, west of 159th St. West) 468-84318**.

SECTION 3. That the cost of said improvements provided for in Section 2 thereof is estimated to be **Two Hundred Eighty-Six Thousand Dollars (\$286,000)** exclusive of the cost of interest on borrowed money, with **100** percent payable by the improvement district. Said estimated cost as above set forth is hereby increased at the pro-rata rate of 1 percent per month from and after **January 1, 2007**, exclusive of the costs of temporary financing.

SECTION 4. That all costs of said improvements attributable to the improvement district, when ascertained, shall be assessed against the land lying within the improvement district described as follows:

MONARCH LANDING ADDITION

Lots 1 through 39, Block 1
Lots 1 through 20, Block 2
Lots 1 and 2, Block 3
Lots 1 and 2, Block 4
Lots 1 through 5, Block 5

MONARCH LANDING SECOND ADDITION

Lots 13, and 30 through 52, Block 1
Lots 1 through 14, Block 2
Lots 1 through 10, Block 3
Lots 1 through 6, Block 4

SECTION 5. That the method of apportioning all costs of said improvements attributable to the improvement district to the owners of land liable for assessment therefore shall be on a **fractional** basis:

The fractional shares provided for herein have been determined on the basis of equal shares being assessed to lots or parcels of substantially comparable size and/or value: Lots 1 through 38, Block 1; Lots 1 through 20, Block 2; and Lots 1 through 5, Block 5; MONARCH LANDING ADDITION shall each pay 79/10,000 of the total cost payable by the improvement district. Lots 1 and 2, Block 3; Lots 1 and 2, Block 4; MONARCH LANDING ADDITION shall each pay 78/10,000 of the total cost payable by the improvement district. Lot 39, Block 1; MONARCH LANDING ADDITION shall pay 1417/10,000 of the total cost payable by the improvement district. Lots 13 and 30 through 52, Block 1; Lots 1 through 14, Block 2; Lots 1 through 10, Block 3; and Lots 1 through 6, Block 4; MONARCH LANDING SECOND ADDITION shall each pay 61/10,000 of the total cost payable by the improvement district.

In the event all or part of the lots or parcels in the improvement district are replatted before assessments have been levied, the assessments against the replatted area shall be recalculated on the basis of the method for assessment set forth herein. Where the ownership of a single lot is or may be divided into two or more parcels, the assessment to the lot so divided shall be assessed to each ownership or parcel on a square foot basis.

SECTION 6. That payment of said assessments may indefinitely be deferred as against those property owners eligible for such deferral available through the Special Assessment Deferral Program.

SECTION 7. That the City Engineer shall prepare plans and specifications for said improvement and a preliminary estimate of cost therefore, which plans, specifications, and a preliminary estimate of cost shall be presented to this Body for its approval.

SECTION 8. Whereas, the Governing Body of the City, upon examination thereof, considered, found and determined the Petition to be sufficient, having been signed by the owners of record, whether resident or not, of more than Fifty Percent (50%) of the property liable for assessment for the costs of the improvement requested thereby; the advisability of the improvements set forth above is hereby established as authorized by K.S.A. 12-6a01 et seq. as amended.

SECTION 9. Be it further resolved that the above-described improvement is hereby

authorized and declared to be necessary in accordance with the findings of the Governing Body as set out in this resolution.

SECTION 10. That the City Clerk shall make proper publication of this resolution, which shall be published once in the official City paper and which shall be effective from and after said publication.

PASSED by the governing body of the City of Wichita, Kansas, this _____ day of _____, 2008.

CARL BREWER, MAYOR

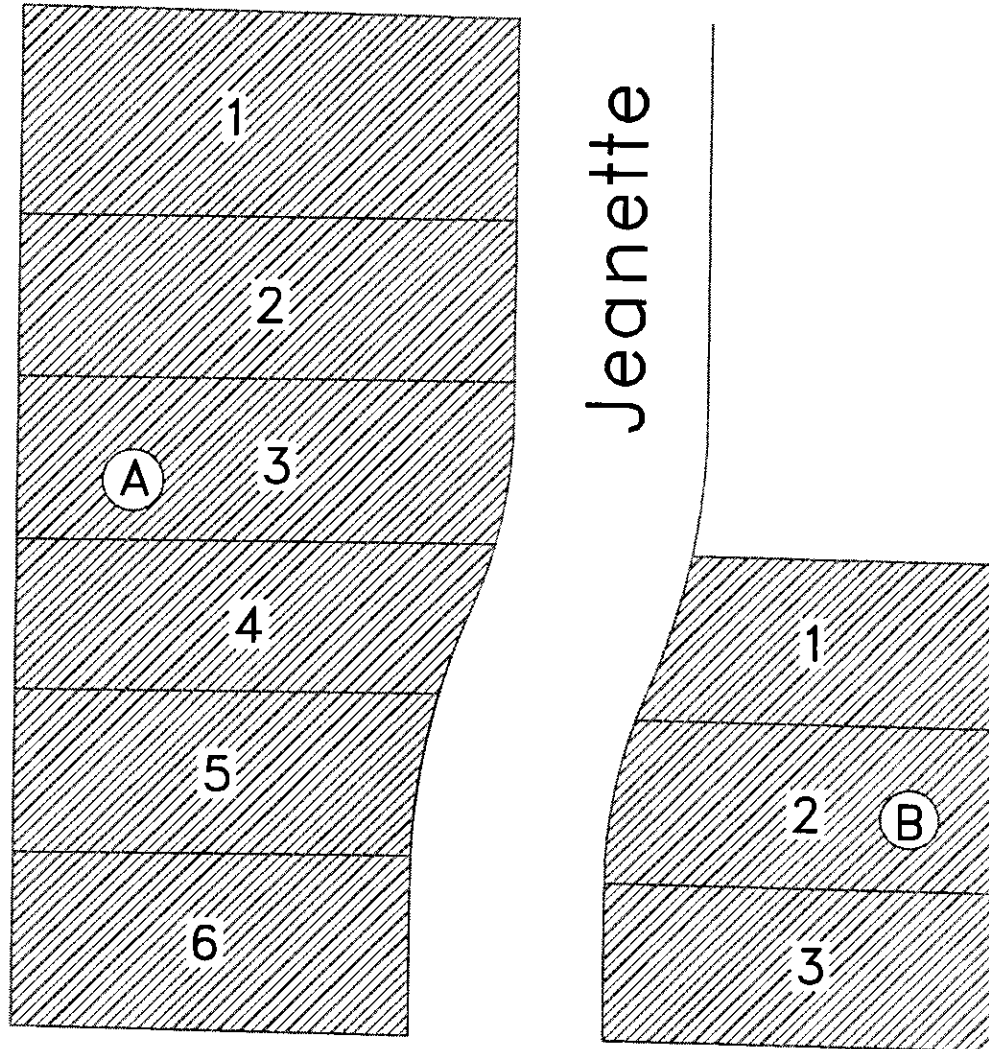
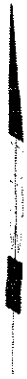
ATTEST:

KAREN SUBLETT, CITY CLERK

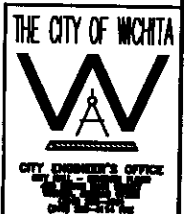
(SEAL)

WOODLAND NORTH ADDITION

29th St N



BENEFIT DISTRICT 
(ACTUAL ALIGNMENT TO BE
DETERMINED BY DESIGN ENGINEER)



CAPITAL IMPROVEMENT

PROJECT AUTHORIZATION

CITY OF WICHITA

- USE:
- | | |
|---------------------|---|
| To Initiate Project | |
| To Revise Project | X |
1. Prepare in triplicate
 2. Send original & 2 copies to budget.
 3. City Manager to sign all copies.
 4. File original w/ initiating resolution in City Clerk.
 5. Return 2nd copy to initiating department.
 6. Send 3rd copy to Controller.

| | | | | |
|--|-------------------------------|------------------------------------|---|-----------|
| 1. Initiating Department Public Works | 2. Initiating Division Eng | 3. Date 6/30/2008 | 4. Project Description & Location Jeanette paving in Woodland North Addition | |
| 5. CIP Project Number NI-200424 | 6. Accounting Number | 7. CIP Project Date (Year) 2008 | 8. Approved by WCC Date | |
| 9. Estimated Start Date | 10. Estimated Completion Date | 11. Project Revised | | |
| As Required | | | | |
| 12. Project Cost Estimate | | | | |
| ITEM | GO | SA | OTHER * | TOTAL |
| Right of Way | | | | |
| Paving | | \$166,000 | | \$166,000 |
| Bridge & Culverts | | | | |
| Drainage | | | | |
| Sanitary Sewer | | | | |
| Sidewalk | | | | |
| Water | | | | |
| Street Lights | | | | |
| Totals | | \$166,000 | | \$166,000 |
| Total CIP Amount Budgeted | | | | |
| Total Prelim. Estimate | | | | |

| | | |
|-------------------|-----|----|
| Platting Required | Yes | No |
| Lot Split | X | |
| Petition | X | |
| Ordered by WCC | | |

Remarks:
100% Petition

472-84649

13. Recommendation: Approve the Petition and Adopt the resolution

| | | | |
|--------------------------------------|---|---------------------------------------|--------------|
| Division Head <i>Jan Anderson</i> | Department Head <i>Chris M. Can...</i> | Budget Officer <i>Wendy Pettit</i> | City Manager |
| Date | Date | Date | Date |
| | | 7/3/2008 | |

RECEIVED

JUL 08 '08

PAVING PETITION

CITY CLERK OFFICE
REVISED

To the Mayor and City Council
Wichita, Kansas

Dear Council Members:

1. We, the undersigned owners of record as below designated, of Lots, Parcels, and Tracts of real property described as follows:

WOODLAND NORTH ADDITION

Lots 1 through 6, Block A

Lots 1 through 3, Block B

do hereby petition, pursuant to the provisions of K.S.A. 12-6a01 et seq., as amended, as follows:

- (a) That there be constructed pavement on Jeanette Ave. from the north line of the plat, south to and including the temporary cul-de-sac.

(East of Hood, South
of 29th St. North)

That said pavement between aforesaid limits be constructed for a width of twenty-six (26) feet from gutter line to gutter line, and each gutter to be two (2) feet in width, making a total roadway width of thirty (30) feet with plans and specifications to be furnished by the City Engineer of the City of Wichita, Kansas. Drainage to be installed where necessary.

- (b) That the estimated and probable cost of the foregoing improvement being One Hundred Sixty-Six Thousand Dollars (\$166,000), with 100 percent payable by the improvement district. Said estimated cost as above set forth may be increased to include temporary interest or finance costs incurred during the course of design and construction of the project, and also may be increased at the pro rata of 1 percent per month from and after February 1, 2008.

- (c) That the land or area above described be constituted as an improvement district against which shall be assessed 100 percent of the total actual cost of the improvement for which the improvement district is liable.

If this improvement is abandoned, altered and/or constructed privately in part or whole that precludes building this improvement under the authority of this petition, any costs that the City of Wichita incurs shall be assessed to the property described above in accordance with the terms of the petition. In addition, if the improvement is abandoned at any state during the design and/or construction of the improvement or if it is necessary for the City of

472-84649

Wichita to redesign, repair or reconstruct the improvement after its initial design and/or construction because the design or construction does not meet the requirements of the City, then such costs associated with the redesign, repair or reconstruction of said improvement shall be assessed to the property described above in accordance with the terms of this petition.

- (d). That the method of assessment of all costs of the improvement for which the improvement district shall be liable shall be on a fractional basis.

The fractional shares provided for herein have been determined on the basis of equal shares being assessed to lots or parcels of substantially comparable size and/or value: Lots 1 through 6, Block A, and Lots 1 through 3, Block B, WOODLAND NORTH ADDITION, shall each pay 1/9 of the total cost of the improvements.

In the event all or part of the lots or parcels in the improvement district are replatted before assessments have been levied, the assessments against the replatted area shall be recalculated on the basis of the method of assessment set forth herein. Where the ownership of a single lot is or may be divided into two or more parcels, the assessment to the lot so divided shall be assessed to each ownership or parcel on a square foot basis.


Except when driveways are requested to serve a particular tract, lot, or parcel, the cost of said driveway shall be in addition to the assessment to said tract, lot, or parcel and shall be in addition to the assessment for other improvements.

2. It is requested that the improvements hereby petitioned be made without notice and hearing, which but for this request, would be required by K.S.A. 12-6a04. This petition may be combined with other petitions of similar nature in order to form one public improvement project.

3. That names may not be withdrawn from this petition by the signers thereof after the Governing body commences consideration of the petition or later than seven (7) days after filing, whichever comes first.

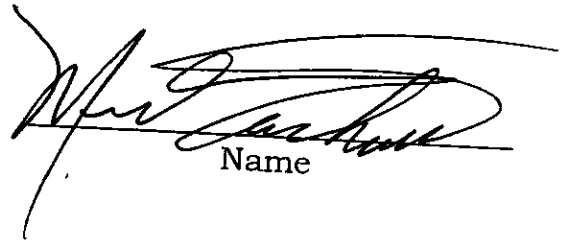
4. That when this petition has been filed with the City Clerk and it has been certified that the signatures thereon are according to the records of the Register of Deeds of Sedgwick County, Kansas, the petition may be found sufficient if signed by either (1) a majority of the resident owners of record of property liable for assessment under the proposal, or (2) the resident owners of record of more than one-half of the area liable for assessment under the proposal, or (3) the owners of record (whether resident or not) of more than one-half of the area liable for assessment under the proposal. The Governing Body is requested to proceed in the manner provided by statute to the end that the petitioned improvements may be expeditiously completed and placed in use.

WITNESS our signatures attached with respect to each of which is indicated the property owned and the date of signing.

| LEGAL DESCRIPTION | SIGNATURE | DATE |
|--|---|--------|
| WOODLAND NORTH ADDITION Lots 1 through 6, Block A Lots 1 through 3, Block B | Mennonite Housing Rehabilitation Services, Inc. By:  Andrew L. Bias, President | 7/2/08 |

AFFIDAVIT

The undersigned, being first duly sworn on his oath, states: That he circulated the attached petition and the signatures thereon are the genuine signatures of the persons they support to be to the best of his knowledge and belief, being signed either in the presence of the undersigned or in the resident owners whose signatures appears on the petition.


Name

Baughman Company, P.A.
315 Ellis, Wichita, KS 67211
Address

262-7271
Telephone No.

Sworn to and subscribed before me this 3 day of July
2008.




Deputy City Clerk

City of Wichita
City Council Meeting
July 22, 2008

TO: Mayor and City Council Members

SUBJECT: Petition for Street Paving in Woodland North Addition (east of Hood, south of 29th St. North) (District VI)

INITIATED BY: Department of Public Works

AGENDA: Consent

Recommendation: Approve the new Petition.

Background: On February 5, 2008, the City Council approved a petition to pave streets in Woodland North Addition. An attempt to award a construction contract within the budget set by the Petition was not successful. The developer has submitted a new Petition with an increased budget. The signature on the Petition represents 100% of the improvement district.

Analysis: The project will provide street paving for a new residential development located east of Hood, south of 29th St. North.

Financial Considerations: The existing Petition totals \$120,000. The new Petition totals \$166,000. The funding source is special assessments.

Goal Impact: This project addresses the Efficient Infrastructure goal by providing street paving required for a new residential development.

Legal Considerations: State Statutes provide that a Petition is valid if signed by a majority of resident property owners or owners of a majority of property in the improvement district.

Recommendations/Actions: It is recommended that the City Council approve the new Petition, adopt the Resolution and authorize the necessary signatures.

Attachments: Map, CIP Sheet, Petition and Resolution.

First Published in the Wichita Eagle on

RESOLUTION NO. _____

RESOLUTION OF FINDINGS OF ADVISABILITY AND RESOLUTION AUTHORIZING CONSTRUCTING PAVEMENT ON **JEANETTE AVE. FROM THE NORTH LINE OF WOODLAND NORTH ADDITION, SOUTH TO AND INCLUDING THE TEMPORARY CUL-DE-SAC (EAST OF HOOD, SOUTH OF 29TH ST. NORTH) 472-84649** IN THE CITY OF WICHITA, KANSAS, PURSUANT TO FINDINGS OF ADVISABILITY MADE BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS.

BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS, THAT THE FOLLOWING FINDINGS AS TO THE ADVISABILITY OF AUTHORIZING CONSTRUCTING PAVEMENT ON **JEANETTE AVE. FROM THE NORTH LINE OF WOODLAND NORTH ADDITION, SOUTH TO AND INCLUDING THE TEMPORARY CUL-DE-SAC (EAST OF HOOD, SOUTH OF 29TH ST. NORTH) 472-84649** IN THE CITY OF WICHITA, KANSAS, ARE HEREBY MADE TO-WIT:

SECTION 1. That Resolution No. **08-052** adopted on **February 5, 2008** is hereby rescinded.

SECTION 2. That it is necessary and in the public interest to authorize constructing pavement on **Jeanette Ave. from the north line of Woodland North Addition, south to and including the temporary cul-de-sac (east of Hood, south of 29th St. North) 472-84649.**

Said pavement shall be constructed of the material in accordance with plans and specifications provided by the City Engineer.

SECTION 3. That the cost of said improvements provided for in Section 2 hereof is estimated to **One Hundred Sixty-Six Thousand Dollars (\$166,000)** exclusive of the cost of interest on borrowed money, with **100** percent payable by the improvement district. Said estimated cost as above set forth is hereby increased at the pro-rata rate of 1 percent per month from and after **February 1, 2008** exclusive of the costs of temporary financing.

SECTION 4. That all costs of said improvements attributable to the improvement district, when ascertained, shall be assessed against the land lying within the improvement district described as follows:

WOODLAND NORTH ADDITION

Lots 1 through 6, Block A

Lots 1 through 3, Block B

SECTION 5. That the method of apportioning all costs of said improvements attributable to the improvement district to the owners of land liable for assessment therefore shall be on a **fractional** basis.

The fractional shares provided for herein have been determined on the basis of equal shares being assessed to lots or parcels of substantially comparable size and/or value: Lots 1 through 6, Block A, and Lots 1 through 3, Block B, WOODLAND NORTH ADDITION shall each pay 1/9 of the total cost of the improvements.

In the event all or part of the lots or parcels in the improvement district are replatted before assessments have been levied, the assessments against the replatted area shall be recalculated on the basis of the method of assessment set forth herein. Where the ownership of a single lot or tract is or may be divided into two or more parcels, the assessment to the lot or tract so divided shall be assessed to each ownership or parcel on a square foot basis. Except when driveways are requested to serve a particular tract, lot or parcel, the cost of said driveway shall be in addition to the assessment to said tract, lot, or parcel and shall be in addition to the assessment for other improvements.

SECTION 6. That payment of said assessments may indefinitely be deferred as against those property owners eligible for such deferral available through the Special Assessment Deferral Program.

SECTION 7. That the City Engineer shall prepare plans and specifications for said improvement and a preliminary estimate of cost therefore, which plans, specifications, and a preliminary estimate of cost shall be presented to this Body for its approval.

SECTION 8. Whereas, the Governing Body of the City, upon examination thereof, considered, found and determined the Petition to be sufficient, having been signed by the owners of record, whether resident or not, of more than Fifty Percent (50%) of the property liable for assessment for the costs of the improvement requested thereby; the advisability of the improvements set forth above is hereby established as authorized by K.S.A. 12-6a01 et seq., as amended.

SECTION 9. Be it further resolved that the above-described improvement is hereby authorized and declared to be necessary in accordance with the findings of the Governing Body as set out in this resolution.

SECTION 10. That the City Clerk shall make proper publication of this resolution, which shall be published once in the official City paper and which shall be effective from and after said publication.

PASSED by the governing body of the City of Wichita, Kansas, this ____ day of _____, 2008.

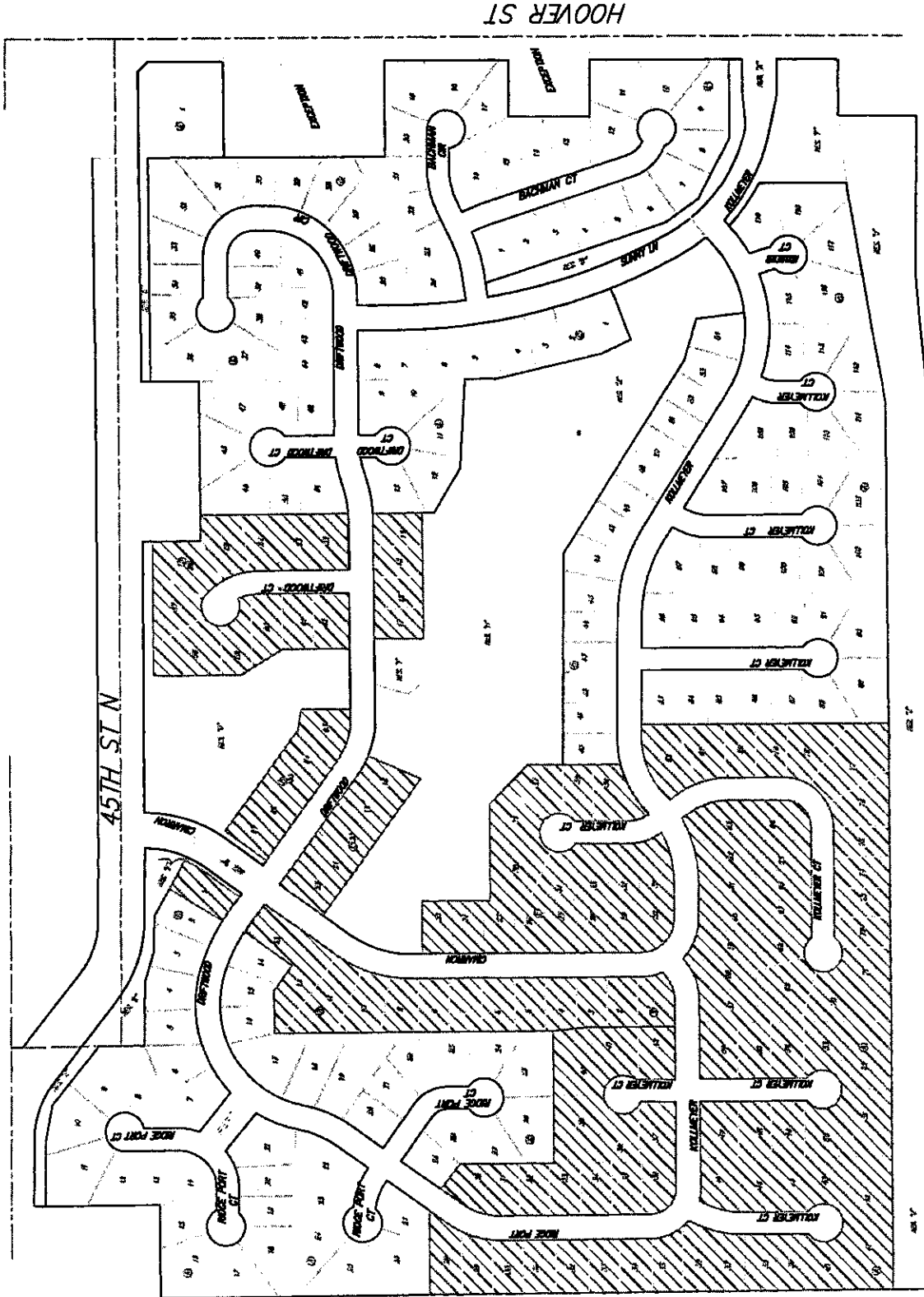
CARL BREWER, MAYOR

ATTEST:

KAREN SUBLETT, CITY CLERK

(SEAL)

EDGE WATER ADDITION



PROPOSED IMPROVEMENT DISTRICT

(ACTUAL ALIGNMENT TO BE
DETERMINED BY DESIGN ENGINEER)



RECEIVED

JUN 05 '08

REVISED

CITY CLERK OFFICE

Project # 468-84365
Lat. 1, Main 24, SW 1

SANITARY SEWER PETITION

(Phase 1)

To the Mayor and City Council
Wichita, Kansas

Dear Council Members:

1. We, the undersigned owners of record as below designated, of Lots, Parcels, and Tracts of real property described as follows:

EDGE WATER ADDITION

Lots 1 through 89, Block A
Lots 1 through 42, Block B
Lots 13 through 40, Block C
Lots 49 through 67, Block D

1-24-SW1

468-84365

UNPLATTED TRACT 'C'

The north 208.71 feet of the west 417.42 feet of Government Lot 1, lying in the NE ¼ of Sec. 27, Twp. 26-S, R-1-W of the 6th P.M., Sedgwick County, Kansas, subject to road rights-of-way of record.

do hereby petition pursuant to the provisions of K.S.A. 12-6a01 et seq., as follows:

- (a) That there be constructed a lateral sanitary sewer to serve the area described above, according to plans and specifications to be furnished by the City Engineer of the City of Wichita, Kansas.
- (b) That the estimated and probable cost of the foregoing improvements is One Million One Hundred Forty-Five Thousand Dollars (\$1,145,000) exclusive of the cost of interest on borrowed money, with 100 percent payable by the improvement district. Said estimated cost as above set forth may be increased to include temporary interest or finance costs incurred during the course of design and construction of the project, and also may be increased at the pro rata rate of one percent per month from and after November 1, 2007.
- (c) That the land or area above described be constituted as an improvement district against which shall be assessed 100 percent of the total actual cost of the lateral sanitary sewer for which the improvement district is liable.

If this improvement is abandoned, altered and/or constructed privately in part or whole that precludes building this improvement under the authority of this petition, any costs that the City of Wichita incurs shall be assessed to the property described above in accordance with the terms of the petition. In addition, if the improvement is abandoned at any state during the design and/or construction of the improvement or if it is necessary for the City of Wichita to redesign, repair or reconstruct the improvement after its initial design and/or construction because the design or construction does not meet the requirements of the City, then such costs associated with the

redesign, repair or reconstruction of said improvement shall be assessed to the property described above in accordance with the terms of this petition.

- (d) That the method of assessment of all costs of the improvements for which the improvement district is liable shall be on a fractional basis.

The fractional shares provided for herein have been determined on the basis of equal shares being assessed to lots or parcels of substantially comparable size and/or value: Lots 1 through 89, Block A, Lots 1 through 42, Block B, Lots 13 through 40, Block C, and Lots 49 through 67, Block D, EDGE WATER ADDITION shall each pay 1/179 of the total cost of the improvements; and UNPLATTED TRACT 'C' shall pay 1/179 of the total cost of the improvements.

In the event all or part of the lots or parcels in the improvement district are replatted before assessments have been levied, the assessments against the replatted area shall be recalculated on the basis of the method of assessment set forth herein. Where the ownership of a single lot is or may be divided into two or more parcels, the assessment to the lot so divided shall be assessed to each ownership or parcel on a square foot basis.

2. (a) It is requested that the improvement hereby petitioned be made without notice and hearing, which, but for this request, would be required by K.S.A. 12-6a04. This petition may be combined with other petitions of similar nature to form one public improvement project.
- (b) Signatures on this petition are made with full knowledge and understanding that said signatures constitute a waiver of the limitations contained in K.S.A. 13-1013, which appear to limit the assessment for a lateral sewer to not more than one lateral sewer.
3. That names may not be withdrawn from this petition by the signers thereof after the Governing Body commences consideration of the petition or later than seven (7) days after filing, whichever occurs first.
4. That when this petition has been filed with the City Clerk and it has been certified that the signatures thereon are according to the records of the Register of Deeds of Sedgwick County, Kansas, the petition may be found sufficient if signed by either (1) a majority of the resident owners of record of property liable for assessment under the proposal, or (2) the resident owners of record of more than one-half of the area liable for assessment under the proposal, or (3) the owners of record (whether resident or not) of more than one-half of the area liable for assessment under the proposal. The Governing Body is requested to proceed in the manner provided by statute to the end that the petitioned improvements may be expeditiously completed and placed in use if and when such improvements are necessary to serve any building that may be constructed on the real property after the date on this petition.

WITNESS our signatures attached with respect to each of which is indicated the property owned and the date of signing.

LEGAL DESCRIPTION

EDGE WATER ADDITION

Lots 1 through 89, Block A
Lots 1 through 42, Block B
Lots 13 through 40, Block C
Lots 49 though 67, Block D

SIGNATURE

DATE

R & R Realty, LLC

By: _____

Jay W. Russell, Manager

4/29/08

Ritchie Associates, Inc., Manager

By: _____

Rob Ramseyer, Vice President 5/2/08

UNPLATTED TRACT 'C'

By: _____

James A. Lindner

4/23/08

By: _____

Julie M. Lindner

4/23/08

AFFIDAVIT

The undersigned, being first duly sworn on his oath, states: That he circulated the attached petition and the signatures thereon are the genuine signatures of the persons they support to be to the best of his knowledge and belief, being signed either in the presence of the undersigned or in the resident owners whose signatures appears on the petition.

Thos. J. White
Name

Baughman Company, P.A.
315 Ellis, Wichita, KS 67211
Address

262-7271
Telephone No.

Sworn to and subscribed before me this 5th day of June
2008.



Deborah A. Zadlock
Deputy City Clerk

**City of Wichita
City Council Meeting
July 22, 2008**

TO: Mayor and City Council Members

SUBJECT: Change Order and Petition for Sanitary Sewer in Edge Water Addition and unplatted tract (south of 45th St. North, west of Hoover) (District V)

INITIATED BY: Department of Public Works

AGENDA: Consent

Recommendation: Approve the Change Order and new Petition.

Background: On January 15, 2008, the City Council approved a Petition and a construction contract with Mies Construction Company for a sanitary sewer in Edge Water Addition. After the work began the owners of an existing home adjacent to the addition asked that their property be incorporated into the project. A new Petition has been prepared to expand the improvement district. The signatures on the Petition represent 100% of the improvement district.

Analysis: A Change Order has been prepared for the cost of the additional work.

Financial Considerations: The total cost of the additional work is \$12,810 with the total paid by Special Assessments. The original contract amount is \$1,108,777. This Change Order represents 1.16% of the original contract amount. The Petition budget remains unchanged at \$1,145,000.

Goal Impact: This project addresses the Efficient Infrastructure goal by providing sanitary sewer improvements for new development and an existing home.

Legal Considerations: The Law Department has approved the Change Order as to legal form. The Change Order amount is within the 25% of construction contract cost limit set by City Council policy.

Recommendation/Action: It is recommended that the City Council approve the Change Order, approve the new Petition, adopt the Resolution and authorize the necessary signatures.

Attachments: Change Order, Petition, Resolution and Map.



PUBLIC WORKS-ENGINEERING

May 22, 2008
CHANGE ORDER

To: Mies Construction

Project: Lat. 1 Main 24 SWI Tied w/Water
Distrib. System; Edgewater Addn

Change Order No.: 1

Project No.: 468-84365/448-90313

Purchase Order No.: 800071

OCA No.: 744260/735391

CHARGE TO OCA No.: 744260

PPN: 480949/470064

Please perform the following extra work at a cost not to exceed \$12,810.00

To allow the homeowner at 5911 W. 45th St. N. to have City sewer, Contractor will extend line 2A 130' to the east from the manhole at station 5+28.8.

CIP Budget Amount: \$1,145,000.00 (744260)
\$ 258,000.00 (735391)

Original Contract Amt.: \$1,108,776.96

Consultant: Baughman

Current CO Amt.: \$12,810.00

Total Exp. & Encum. To Date: \$1,053,464.69 (744260)

Amt. of Previous CO's: \$0.00

CO Amount: \$12,810.00

Total of All CO's: \$12,810.00

% of Orig. Contract / 25% Max.: 1.16%

Unencum. Bal. After CO: \$78,695.31 (744260)

Adjusted Contract Amt.: \$1,121,586.96

Recommended By:

Approved:

Lawrence Schaller, P.E.
Construction Engineer

Date

Jim Armour, P.E.
City Engineer

Date

Approved:

Approved:

Contractor

Date

Chris Carrier, P.E.
Director of Public Works

Date

Approved as to Form:

By Order of the City Council:

Gary Rebenstorf
Director of Law

Date

Carl Brewer
Mayor

Date

City Clerk

Attest: _____

RESOLUTION NO. _____

RESOLUTION OF FINDINGS OF ADVISABILITY AND RESOLUTION AUTHORIZING CONSTRUCTION OF **LATERAL 1, MAIN 24, SOUTHWEST INTERCEPTOR SEWER (SOUTH OF 45TH ST. NORTH, WEST OF HOOVER) 468-84365** IN THE CITY OF WICHITA, KANSAS, PURSUANT TO FINDINGS OF ADVISABILITY MADE BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS.

BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS, THAT THE FOLLOWING FINDINGS AS TO THE ADVISABILITY OF THE CONSTRUCTION OF **LATERAL 1, MAIN 24, SOUTHWEST INTERCEPTOR SEWER (SOUTH OF 45TH ST. NORTH, WEST OF HOOVER) 468-84365** IN THE CITY OF WICHITA, KANSAS, ARE HEREBY MADE TO-WIT:

SECTION 1. That Resolution No. **07-452** adopted on **August 7, 2007**, Resolution No. **07-704** adopted on **December 11, 2007** and Resolution No. **08-030** adopted on **January 15, 2008** are hereby rescinded.

SECTION 2. That it is necessary and in the public interest to construct **Lateral 1, Main 24, Southwest Interceptor Sewer (south of 45th St. North, west of Hoover) 468-84365**.

Said sanitary sewer shall be constructed of the material in accordance with plans and specifications provided by the City Engineer.

SECTION 3. That the cost of said improvements provided for in Section 2 hereof is estimated to be **One Million One Hundred Forty-Five Thousand Dollars (\$1,145,000)** exclusive of the cost of interest on borrowed money, with **100** percent payable by the improvement district. Said estimated cost as above set forth is hereby increased at the pro-rata rate of 1 percent per month from and after **November 1, 2007** exclusive of the costs of temporary financing.

SECTION 4. That all costs of said improvements attributable to the improvement district, when ascertained, shall be assessed against the land lying within the improvement district described as follows:

EDGE WATER ADDITION

Lots 1 through 89, Block A
Lots 1 through 42, Block B
Lots 13 through 40, Block C
Lots 49 through 67, Block D

UNPLATTED TRACT 'C'

The north 208.71 feet of the west 417.42 feet of Government Lot 1, lying in the NE ¼ of Sec. 27, Twp. 26-S, R-1-W of the 6th P.M., Sedgwick County, Kansas, subject to road rights-of-way record.

SECTION 5. That the method of apportioning all costs of said improvements attributable to the improvement district to the owners of land liable for assessment therefore shall be on a **fractional** basis:

The fractional shares provided for herein have been determined on the basis of equal shares being assessed to lots or parcels of substantially comparable size and/or value: Lots 1 through 89, Block A, Lots 1 through 42, Block B, Lots 13 through 40, Block C, and Lots 49 through 67, Block D, EDGE WATER ADDITION, shall each pay 1/179 of the total cost of the improvements; and UNPLATTED TRACT 'C' shall pay 1/179 of the total cost of the improvements.

In the event all or part of the lots or parcels in the improvement district are replatted before assessments have been levied, the assessments against the replatted area shall be recalculated on the basis of the method of assessment set forth herein. Where the ownership of a single lot is or may be divided into two or more parcels, the assessment to the lot so divided shall be assessed to each ownership or parcel on a square foot basis.

SECTION 6. That payment of said assessments may indefinitely be deferred as against those property owners eligible for such deferral available through the Special Assessment Deferral Program.

SECTION 7. That the City Engineer shall prepare plans and specifications for said improvement and a preliminary estimate of cost therefore, which plans, specifications, and a preliminary estimate of cost shall be presented to this Body for its approval.

SECTION 8. Whereas, the Governing Body of the City, upon examination thereof, considered, found and determined the Petition to be sufficient, having been signed by the owners of record, whether resident or not, of more than Fifty Percent (50%) of the property liable for assessment for the costs of the improvement requested thereby; the advisability of the improvements set forth above is hereby established as authorized by K.S.A. 12-6a01 et seq., as amended.

SECTION 9. Be it further resolved that the above described improvement is hereby authorized and declared to be necessary in accordance with the findings of the Governing Body as set out in this resolution.

SECTION 10. That the City Clerk shall make proper publication of this resolution, which shall be published once in the official City paper and which shall be effective from and after said publication.

PASSED by the governing body of the City of Wichita, Kansas, this _____ day of _____, 2008.

CARL BREWER, MAYOR

ATTEST:

KAREN SUBLETT, CITY CLERK

(SEAL)

CITY OF WICHITA
City Council Meeting
July 22, 2008

TO: Mayor and City Council Members

SUBJECT: Designation of Redeveloper for Portions of Lot 8, Bridgeport Industrial Park II and Lots 3 and 4, North Wichita Gardens Addition (District VI)

INITIATED BY: Office of Property Management

AGENDA: Consent

Recommendation: Wichita Towers, L.L.C. as the redeveloper for the northern portion of Lot 8, Bridgeport Industrial Park II and the north 210 feet of Lots 3 and 4, North Wichita Gardens Addition and approve the sale.

Background: In the late 1970's, the City of Wichita determined that there was insufficient industrial land available. To meet this need, the City purchased land near 37th Street North and Ohio under the Urban Renewal Act and redeveloped the area as the Bridgeport Industrial Parks. A significant portion of the parks have been sold over time. An offer has been received for one of the remaining tracts from Wichita Towers, L.L.C. They wish to acquire 90,153 square feet of Lot 8 and the remaining 23,100 square feet of the adjacent lots 3 and 4 and construct 20,000 to 30,000 square feet of warehouse/distribution space for speculative leasing. The tract in question is located on the west side of Bridgeport Circle north of 37th Street North.

Analysis: The sale price is \$135,904 (\$1.20 per square foot). There have been no recent offers on the property. Larger lots, 5 to 7 acres in Bridgeport III were appraised at \$.75 per square foot. The southern part of this parcel sold for \$.66 per square foot in 1995. The lot is irregularly shaped and impacted by drainage easements.

Financial Considerations: The City will receive cash from the sale. After the City's costs of selling, advertising and closing costs are paid, the remainder will go to the City's CDBG program in accordance with HUD regulations.

Goal Impact: The sale and redevelopment of this property will support a dynamic core area and vibrant neighborhood.

Legal Considerations: The Law Department has approved the contracts as to form.

Recommendation/Action: It is recommended that the City Council approve the Real Estate Purchase Contracts and authorize all necessary signatures.

Attachments: Real estate agreement and aerial

RESOLUTION NO.

A RESOLUTION RELATING TO THE SELECTION OF FIDELITY BANK, AS A BANKING SERVICES PROVIDER AND UPDATING AUTHORIZATIONS FOR THE PREPARATION, EXECUTION AND DELIVERY OF NECESSARY AGREEMENTS IN CONNECTION THEREWITH.

WHEREAS, the City of Wichita approved the selection of FIDELITY Bank, N.A. as a banking services provider for Neighborhood Improvement Services; and,

WHEREAS, the City of Wichita has existing agreements for Neighborhood Improvement banking services with FIDELITY Bank, N.A.; and,

WHEREAS, FIDELITY Bank, N.A. (the "Bank") is qualified to serve as a designated depository of municipal funds and is capable of providing arrangements meeting the City's current needs and requirements;

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS:

Section 1. Approval of Bank Selection. The governing body reaffirms its selection of the Bank to provide banking services required by the City, including service as a designated depository of municipal funds pursuant to K.S.A. 9-1401, which deposits are to be secured by pledges of acceptable securities, as provided by K.S.A. 9-1402 and K.S.A. 9-1405, all as amended.

Section 2. Transfer Authority and Execution of Documents. The Interim City Manager is hereby authorized and directed to agree upon, with representatives of the Bank, and to enter into agreement(s) setting forth, the terms and conditions upon which the Bank, in accordance with the specifications established by the City's Finance Department (and in forms approved by the City Attorney), will receive and maintain deposits and make transfers of the City's funds to or from any account of the City, wherever maintained, or from any account of the City to any firm, person or bank, when acting upon requests, or orders, except and provided that all existing agreements shall be modified as necessary to reflect a change in authorized signatories from those identified in the Prior Resolutions and that such terms and conditions may authorize the Bank to act upon requests received by voice communication given in accordance with procedures agreed upon with the Bank in writing and signed by either of the City's officers or agents listed below:

Scott Moore, Interim City Manager

Signature

Kelly Carpenter, Director of Finance

Signature

Furthermore, the City Clerk or any Deputy City Clerk is hereby authorized and directed to attest to any such writing(s), for and on behalf of the City.

Section 3. Delivery of Documents; Further Authority. The Interim City Manager, City Clerk or other appropriate officers, agents or representatives of the City, are hereby authorized and directed to deliver a duplicate original or certified copy of this Resolution, and to execute and deliver such other documents and certificates as may be approved by the City Attorney as documents necessary and appropriate to carry out the intent of this Resolution.

Section 4. Certification. The City Clerk or any Deputy City Clerk is hereby authorized and directed to certify this Resolution to the Bank.

Section 5. Effective Date. This Resolution shall take effect immediately upon its passage by the

Governing Body of the City.

ADOPTED by the governing body of the City of Wichita, Kansas, this 22nd day of July, 2008.

CITY OF WICHITA, KANSAS

By _____
Carl Brewer, Mayor

ATTEST:

Karen Sublett, City Clerk

(SEAL)

Approved as to Form:

Gary E. Rebenstorf
Director of Law

City of Wichita Authorization Resolution

Fidelity Bank
100 E. English
Wichita, KS 67202
Referred to as Financial Institution

By: City of Wichita
332 Riverview Street
Wichita, KS 67203
Referred to as Municipal Corporation

Account Number

0060014463
0060014471
9060011079

Account Name

Historical Loan Revolving Account
Direct Loan Revolving Account
Rental Rehab Program

I, Karen Sublett, certify that I am the City Clerk of the City of Wichita, a Municipal corporation organized under the laws of Kansas, Federal I.D. Number 48-6000653, engaged in business under the trade name of City of Wichita, and that the resolutions on this document are a correct copy of the resolutions adopted at a meeting of the Governing Body of the Corporation duly and properly called and held on _____.

These resolutions appear in the minutes of this meeting and have not been rescinded or modified.

Agents Any agent listed below, subject to any written limitations, is authorized to exercise the powers granted as indicated below:

| <u>Name and Title</u> | <u>Signature</u> |
|---|------------------|
| A. Scott Moore, Interim City Manager | _____ |
| B. Kelly Carpenter, Director of Finance | _____ |
| C. Shawn Henning, City Treasurer | _____ |
| D. Carol F. McMillan, Controller | _____ |
| E. Becky Johnston, Cash Manager | _____ |

Powers Granted

Indicate number of signatures required

| | | |
|-----------------|--|---|
| A, B | Open any deposit or share account(s) in the name of the Corporation | 2 |
| A, B, C | Endorse checks for deposit. | 1 |
| A, B | Issue orders for the payment of money or withdraw or externally transfer funds on deposit with this Financial Institution. | 2 |
| C, E | Initiate recurring wire transfers to pre-authorized City of Wichita Accounts | 1 |
| C, E | Transfer funds internally between the above authorized accounts | 1 |
| A & D or B & D. | Jointly issue instructions to establish pre-authorized accounts for wire transfers. | 2 |

Limitations on Powers – The following are the Corporation's express limitations on the powers granted under this resolution.

Any account agreements and any other contracts or agreements beyond checks, payment orders or other transfer or withdrawal directions authorized under "Powers Granted" above are subject to approval by the Corporations Governing Body.

This resolution supersedes all prior resolutions.

Certification of Authority

I further certify that the Governing Body of the Corporation has, and at the time of adoption of this resolution had, full power and lawful authority to adopt the resolutions and to confer the powers granted above to the persons named who have full power and lawful authority to exercise the same. This Corporation is a non-profit corporation.

In Witness Whereof, I have subscribed my name to this document and affixed the seal of the Corporation on _____ (date).

Attest by One other Officer

City Clerk

Approved as to Form:
Gary Rebenstorf, City Attorney

City of Wichita
City Council Meeting
July 22, 2008

TO: Mayor and City Council
SUBJECT: Fidelity Bank Resolutions
INITIATED BY: Department of Finance
AGENDA: Consent

Recommendations: Adopt the resolutions and authorize the necessary signatures.

Background: The City utilizes Fidelity Bank to process and service Neighborhood Improvement Revolving Loan program transactions. This program provides loan assistance for the purposes of historic preservation, rehabilitation and restoration, as well as rehabilitation of owner-occupied and rental homes.

Analysis: Authorized staff has changed requiring update of the authorizing resolutions related to the accounts held with Fidelity bank. The authorizing resolutions delegate individual authority with respect to specific banking transactions to ensure the proper segregation of duties and adequate internal controls.

Financial Considerations: Banking fees associated with this program are borne by the loan participants.

Goal Impact: This action impacts the Economic Vitality/Affordable Living and Internal Perspectives through the continued services provided by Fidelity Bank and facilitation of transactions related to the Neighborhood Improvement Revolving Loan program.

Legal Considerations: The resolutions have been approved as to form by the Law Department.

Recommendations/Actions: It is recommended that the City Council adopt the resolutions updating the list of individuals authorized to execute transactions with Fidelity Bank and authorize the necessary signatures.

Attachments: Authorizing Resolutions

GRANT AGREEMENT

Between

**THE CITY OF WICHITA
HOUSING AND COMMUNITY SERVICES DEPARTMENT**

A

PARTICIPATING JURISDICTION

And

Mennonite Housing Rehabilitation Services, Inc.,

and

POWER CDC, Inc.

and

Community Housing Services of Wichita/Sedgwick County, Inc.

and

Wichita Indochinese Center, Inc.

COMMUNITY HOUSING DEVELOPMENT ORGANIZATIONS

HOME Investment Partnerships
Program

2008 CHDO Set-Aside Funding

Housing and Community Services Department
City of Wichita
332 N. Riverview
Wichita, Kansas 67203
Phone (316) 462-3700
Fax (316) 462-3719

No. _____

AGREEMENT

THIS CONTRACT, dated to be effective July 22, 2008, by and between the City of Wichita, Kansas (hereinafter referred to as the City) and Mennonite Housing Rehabilitation Services, Inc., Power CDC, Inc., Community Housing Services of Wichita/Sedgwick County, Inc., and Wichita Indochinese Center, Inc. (hereinafter referred to as the "Developers").

WITNESSETH THAT:

WHEREAS, the City is entitled to receive a HOME Investment Partnerships Program Grant (hereinafter referred to as HOME), from the U.S. Department of Housing and Urban Development (hereinafter referred to as the "Department").

WHEREAS, the Developers are desirous of participating in activities eligible under HOME, and further agree that the beneficiaries of their activities under the program and this agreement are, or will be, individuals or families who meet the income eligibility guidelines of Title 24 CFR Part 92.216/217 as applicable; and

WHEREAS, the City deems the activities to be provided by the Developers as consistent with, and supportive of the HOME Investment Partnership Program, and that the Developers require the financial assistance of the City to initiate their activities; and

WHEREAS, the cooperation of the City and the Developers is essential for the successful implementation of an Affordable Housing Program;

WHEREAS, the Developers shall be the responsible authority, in connection with their respective projects undertaken with the funding provided under this agreement, without recourse to the City regarding the settlement and satisfaction of all contractual and administrative issues arising out of this agreement;

NOW, THEREFORE, the contracting parties do mutually agree as follows:

SECTION 1. SCOPE OF SERVICES. The Developers must follow the Performance Criteria and Program Description as outlined in Exhibit B. Any programmatic change substantially altering the contract's original intent or financial change in contract amount or line items in the approved budget that is greater than \$10,000 shall require a written contract amendment. The amendment shall be approved by the City Council and shall also be approved and signed by all parties to the original contract.

SECTION 2. TIME OF PERFORMANCE. The services of the Developers are to begin as soon as possible, on the date of this contract, and shall be undertaken and completed in such

sequence as to assure their expeditious completion in light of the purposes of this contract. The construction phase of this contract shall be complete by December 31, 2010, with all expenses incurred on or before that date. This contract shall otherwise remain in force through the period of affordability, which will end on a date up to 15 years following the date of completion of the final unit, as defined in 24 CFR 92.2, depending on the amount of HOME funds invested in each unit of construction. Deed restrictions filed in connection with each unit will specify the applicable affordability period for the unit.

SECTION 3. RECORDS, REPORTS AND INSPECTION.

A. Establishment and Maintenance of Records. The Developers shall establish and maintain records as prescribed by the Department, and/or the City, with respect to all matters covered by this contract. Except as otherwise authorized by the Department and/or the City, the Developers shall (Per 24 CFR 92.508) **retain such records for a period of five years following the date final payment is received under this contract.**

B. Documentation of Costs. All costs shall be supported by properly executed payrolls, time records, invoices, contracts or vouchers, or other official documentation evidencing in proper detail the nature and propriety of the charges. All checks, payrolls, invoices, contracts, vouchers, orders or other accounting documents pertaining in whole or in part to this contract shall be clearly identified and readily accessible.

C. Reports and information. The Developers, at such times and in such forms as the City or its designated and authorized representative(s) may require, shall furnish to the City or its designated and authorized representative(s) such statements, records, reports, data and information as the City may request pertaining to matters covered by this contract.

D. Audits and Inspections. The Developers shall at any time and as often as the Housing and Community Services Department, or the City or the Comptroller General, or the Department of Housing and Urban Development, (HUD) or the HUD Inspector General of the United States may deem necessary, make available all its records and data for the purpose of making audits, reviews, examinations, excerpts and transcriptions.

SECTION 4. CONFLICT OF INTEREST. No owner, Developer or sponsor of a project assisted with HOME funds (or officer, employee, agent, elected or appointed official or consultant of the owner, Developer or sponsor) whether private, for profit or non-profit (including a Community Housing Development Organization (CHDO) when acting as an owner, Developer or sponsor) may occupy a HOME-assisted affordable unit in a project. This provision does not apply to an individual who receives HOME funds to acquire or rehabilitate his or her principal residence or to an employee or agent of the owner or Developer of a rental housing project who occupies a housing unit as the project manager or maintenance worker. (24 CFR 92.356 (f)(1)).

EXCEPTIONS: An exception may be granted in accordance and in compliance with 24 CFR 92.356 (f)(2)(I) through (V), and with the City's prior approval.

SECTION 5. DISCRIMINATION.

A. Discrimination Prohibited. No recipient or proposed recipient of any funds, services or other assistance under the provisions of this contract or any program related to this contract, shall be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity funded in whole or in part with the funds made available through this contract on the grounds of race, color, national origin, ancestry, religion, disability, sex or age. (Reference Title VI of the Civil Rights Act of 1964 (Pub. L. 88-352)). For purposes of this section, "program or activity" is defined as any function conducted by an identifiable administrative unit of the Developers receiving funds pursuant to this contract.

B. The Developers further agree to implement and comply with the "Revised Non-Discrimination and Equal Employment Opportunity Statement for contracts or agreements" as provided in Exhibit A attached hereto.

C. The Developers will not discriminate against any employee or applicant for employment because of race, color, national origin, sex, or religion, in accordance with Executive Order 11246 – Equal Employment Opportunity, as amended and its implementing regulations at 41 CFR Part 60. If a particular Developer has fifteen or more employees, that Developer is prohibited from discriminating against any employee or applicant with a disability, in accordance with Title I of the Americans with Disabilities Act of 1990 (ADA). Nondiscrimination notices should be included in all job postings and posted in a visible place in the Developer's office.

SECTION 6. EMPLOYMENT OPPORTUNITIES FOR BUSINESSES AND LOWER INCOME PERSONS IN CONNECTION WITH ASSISTED PROJECTS.

A. GENERAL. Section 3 of the Housing and Urban Development Act of 1968, 12 U.S.C. 1701 u., and Sec. 7 (d), Department of HUD Act, 42 U.S.C. 3535 (d) is applicable to all projects assisted by any Department program in which loans, grants, subsidies or other financial assistance, including HOME Investment Partnerships Program under the Act are provided in aid of housing, urban planning, development, redevelopment or renewal, public or community facilities, and new community developments.

B. Assurance of Compliance.

1. The work to be performed under this contract is subject to the requirements of section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u (Section 3). The purpose of Section 3 is to ensure that employment and other economic opportunities generated by HUD assistance or HUD-assisted projects covered by section 3, shall, to the greatest extent feasible, be directed to low- and very low-income persons, particularly persons who are recipients of HUD assistance for housing.

2. The parties to this contract will comply with the HUD's regulations in 24 CFR part 135, which implement section 3. As evidenced by their execution of this contract, the parties to this contract certify that they are under no contractual or other impediment that would prevent them from complying with the part 135 regulations.

3. The Developers agree to send to each labor organization or representative of workers with which the owner has a collective bargaining agreement or other understanding, if any, a notice advising the labor organization or workers' representative of the contractor's commitments under this section 3 clause, and will post copies of the notice in conspicuous places at the work site where both employees and applicants for training and employment positions can see the notice. The notice shall describe the section 3 preference, shall set forth minimum number and job titles subject to hire, availability of apprenticeship and training positions, the qualifications for each; and the name and location of the person(s) taking applications for each of the positions; and the anticipated date the work shall begin.

4. The Developers agree to include this section 3 clause in every subcontract subject to compliance with regulations in 24 CFR part 135, and agrees to take appropriate action, as provided in an applicable provision of the subcontract or in this section 3 clause, upon finding that the subcontractor is in violation of the regulations in 24 CFR part 135. The contractor will not subcontract with any subcontractor where the contractor has notice or knowledge that the subcontractor has been found in violation of the regulations in 24 CFR part 135.

5. The Developers will certify that any vacant employment positions, including training positions, that are filled (1) after the contractor is selected, but before the contract is executed, and (2) with persons other than those to whom the regulations of 24 CFR part 135 require employment opportunities to be directed, were not filled to circumvent the contractor's obligations under 24 CFR part 135.

6. Noncompliance with HUD's regulations in 24 CFR part 135 may result in sanctions, termination of this contract for default, and debarment or suspension from future HUD assisted contracts.

7. With respect to work performed in connection with section 3 covered Indian housing assistance, section 7(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450e) also applies to the work to be performed under this contract. Section 7(b) requires that to the greatest extent feasible (i) preference and opportunities for training and employment shall be given to Indians, and (ii) preference in the award of contracts and subcontracts shall be given to Indian organizations and Indian-owned Economic Enterprises. Parties to this contract that are subject to the provisions of section 3 and section 7(b) agree to comply with section 3 to the maximum extent feasible, but not in derogation of compliance with section 7(b).

8. Every contract or agreement entered into by the Developers which involves funds provided under this contract will have incorporated therein subsection B of Section 6 of this contract.

9. In the event a Developer sells, leases, transfers or otherwise conveys land upon which work in connection with this project is to be performed, the City must be notified in writing, thirty (30) days prior to such action. Further, prior to sale or lease of property purchases, funded under this agreement, the Developer shall include in each contract or subcontract for work on such land, a clause requiring the purchaser, lessee or redeveloper to assume the same obligations as the Developer for work under subsection B of Section 6 of this contract. Each such purchaser, lessee or redeveloper shall be relieved of such obligations upon satisfactory completion of all work to be performed under the terms of the redevelopment contract.

SECTION 7. FEDERAL LABOR STANDARDS PROVISIONS. Except with respect to the rehabilitation or construction of residential property containing less than twelve units, the Developers and all contractors and subcontractors engaged under contracts in excess of \$2,000 for the construction, prosecution, completion or repair of any building or work financed in whole or in part with assistance provided under this contract **will comply with the Davis-Bacon Act** (40 U.S.C. 276 a to a-7), as supplemented by Department of Labor (DOL) regulations (29 CFR, Part 5), the Copeland "Anti-Kickback" Act (18 U.S.C. 874, and 40 U.S.C. 276c) as supplemented in DOL regulations (29 CFR, Part 3), sections 103 and 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327-333) as supplemented by DOL regulations (29 CFR, Part 5), and the regulations issued pursuant thereto, and the Fair Labor Standards Act of 1938, As Amended (29 U.S.C. 201, et seq.). **The Developers shall cause or require to be inserted in full, in all such contracts subject to such regulations, provisions consistent with applicable Federal Labor Standards.** No contracts under this section shall be awarded to any contractors or subcontractors debarred for violating Federal Labor Standards Provisions. **This Project does not include construction, prosecution, completion or repair of more than 11 units, and is exempt from Davis-Bacon Act wage requirements.**

The Developers shall take affirmative action to ensure that applicants for employment are employed, contractors or subcontractors receive contracts, and all employees are treated, without regard to their race, color, religion, sex, or national origin. Such action shall include, but not be limited to the following:

employment, recruitment or recruitment advertising,
contracting or subcontracting, promotion, demotion,
transfer, layoff, termination, rates of pay or other
forms of compensation, and selection for training
including apprenticeship.

The Developers shall incorporate the foregoing requirements of this paragraph in all of their contracts, except those exempt by law, and will require all of their contractors to incorporate such requirements in all subcontracts.

SECTION 503 AFFIRMATIVE ACTION FOR QUALIFIED INDIVIDUALS WITH DISABILITIES:

The Developers and any subcontractors will comply with the provisions of Section 503 of the Rehabilitation Act of 1973, if the funding award of their Agreement is \$2,500 or more, including, but not limited, to the following:

a) The Developers will not discriminate against any employee or applicant for employment because of disability in regard to any position for which the employee or applicant for employment is qualified.

b) The Developers agree to take affirmative action to employ, advance in employment and otherwise treat qualified individuals with disabilities without discrimination based upon their disability in all employment practices, including, but not limited to, the following:

Employment, recruitment or recruitment advertising, contracting or subcontracting, promotion, demotion, transfer, layoff, termination, rates of pay or other forms of compensation, and selection for training including apprenticeship.

c) **The Developers agree to post in conspicuous places, within administrative office and warehouse facilities available to employees and applicants for employment, notices, which make reference to the Developers' compliance with The Rehabilitation Act.** Such notices shall state the Developers' obligation under the law not to discriminate on the basis of physical or mental disability and to take affirmative action to employ and advance in employment qualified individuals with disabilities.

SECTION 8. COMPLIANCE WITH LOCAL LAWS. All parties shall comply with all applicable laws, ordinances, codes and regulations of the State of Kansas and local governments.

SECTION 9. ASSIGNABILITY. The Developers shall not assign any interest in this contract without prior written consent of the City.

SECTION 10. POLITICAL ACTIVITY PROHIBITED.

A. None of the funds, materials, property or services provided directly or indirectly under this contract, shall be used for partisan political activity.

B. The funds provided under this contract shall not be engaged in any way in contravention of Chapter 15 of Title 5, U.S.C.

SECTION 11. LOBBYING PROHIBITED. None of the funds provided under this contract shall be used for lobbying and/or propaganda purposes designed to support or defeat legislation pending before the Congress of the United States of America or the Legislature of the State of Kansas.

SECTION 12. PAYMENTS.

A. Compensation and Method of Payment. Compensation and method of payment to the Developers, relative to conducting the operations of the project activities and services as herein described, will be carried out as specified in Exhibit B attached hereto, and will be administered under the established accounting and fiscal policies of the City of Wichita.

B. Total Payments. Total Payment to the Developers, accumulatively, will not exceed \$200,000.00 as referenced in Exhibit B. Contract payments above \$200,000.00 are contingent upon the sale of completed projects and extended grant authority as a result of program income generated by the project.

C. Restriction on Disbursements. No Entitlement Funds shall be disbursed to the Developers or contractor except pursuant to a written contract, which incorporates by reference the general conditions of this contract.

D. Unearned Payments. Under this contract unearned payments may be suspended or terminated if the entitlement funds to the City of Wichita under the HOME Investment Partnerships Program (24 CFR Part 92) are suspended or terminated.

SECTION 13. TERMINATION CLAUSE. Upon breach of the contract by any of the Developers, the City, by giving written notification, may terminate this contract immediately. A breach shall include, but not be limited to, failure to comply with any or all items contained within Section 1 through Section 29, Exhibits and/or provisions of any subsequent contractual amendments executed relative to this contract. In the event of a breach of contract, the Developers agree to re-pay any HOME funds advanced under this agreement.

SECTION 14. AMENDMENTS.

A. To provide necessary flexibility for the most effective execution of this project, whenever both the City and the Developers mutually agree, changes to this contract may be effected by placing them in written form and incorporating them into this contract.

B. Programmatic changes substantially altering the contract's original intent or financial changes in contract amount or line items in the approved budget (Exhibit C) that are greater than \$10,000 shall require a written contract amendment. The amendment must be approved by the City Council and must also be approved and signed by all parties to the original contract.

SECTION 15. POLLUTION STANDARDS. In the event the grand total of Exhibit C is in excess of \$100,000, the Developers agree to comply with all applicable standards, orders, or regulations issued pursuant to the Clean Air Act of 1970 (42 U.S.C. 185, et seq.) and the Federal Water Pollution Control Act (33 U.S.C.1251, et seq.), As Amended.

SECTION 16. ARCHITECTURAL BARRIERS. Every building or facility (other than a private residential structure) designed, constructed or altered with funds provided pursuant to this contract shall be designed, altered or constructed in accordance with the standards issued under the Architectural Barriers Act of 1968 (42 USC 4151 et. seq.), as amended, and the minimum guidelines and requirements issued by the Architectural and Transportation Compliance Board pursuant to Section 502 (b.) (3.) of the Rehabilitation Act of 1973 (29 USC 792 (b.) (3.) as amended, and Section 504 of the Rehabilitation Act of 1973.

The Section 504 implementing regulations (24 CFR Part 8) apply to this project. Newly constructed or rehabilitated housing for purchase or single-family housing developed with Federal funds must be made accessible upon the request of the prospective buyer if the nature of the prospective occupant's disability so requires. Should a prospective buyer request a modification to make a unit accessible, an owner/developer, receiving funding under this agreement must work with the buyer to provide specific features that meet the need(s) of the prospective homebuyer/occupant. If the design features that are needed for the buyer are design features that are covered in the Uniform Federal Accessibility Standards (UFAS), those features must comply with the UFAS standard. The Developers shall be permitted to depart from the standard in order to have the buyer/occupant's needs met.

Multi-family dwellings must also meet the design and construction requirements at 24 CFR 100.205, which implement the Fair Housing Act (42 U.S.C. 3601-19), and Section 504 of the Rehabilitation Act of 1973, as applicable.

SECTION 17. ANTI-TRUST LITIGATION. For good cause, and as consideration for executing this contract, the Developers, acting herein by and through their authorized agents, hereby convey, sell, assign and transfer to the City of Wichita all right, title and interest in and to all causes of action they may now or hereafter acquire under the anti-trust laws of the United States and the State of Kansas, relating to the particular product, products, or services purchased or acquired by the Developers pursuant to this contract.

SECTION 18. UNIFORM GRANT ADMINISTRATIVE REQUIREMENTS AND COST PRINCIPLES. During the administration of this contract, the Developers shall comply with 24 CFR 84.21, Standards for financial management systems, as follows:

- (a) Developers are required to relate financial data to performance data and develop unit cost information whenever practical.
- (b) Developers' financial management systems shall provide for the following:
 - (1) Accurate, current and complete disclosure of the financial results of each federally-sponsored project or program in accordance with the reporting requirements set forth in §84.52. If a recipient maintains its records on other than an accrual basis, the Developers shall not be required to establish an accrual accounting system. The Developers may

develop such accrual data for reports on the basis of an analysis of the documentation on hand.

(2) Records that identify adequately the source and application of funds for federally-sponsored activities. These records shall contain information pertaining to Federal awards, authorizations, obligations, unobligated balances, assets, outlays, income and interest.

(3) Effective control over and accountability for all funds, property and other assets. The Developers shall adequately safeguard all such assets and assure they are used solely for authorized purposes.

(4) Comparison of outlays with budget amounts for each award. Whenever appropriate, financial information should be related to performance and unit cost data.

(5) Written procedures to minimize the time elapsing between the transfer of funds to the Developers from the City, and the issuance or redemption of checks, warrants or payments by other means for program purposes by the Developers. To the extent that the provisions of the Cash Management Improvement Act (CMIA) (Pub. L. 101-453) govern, payment methods of State agencies, instrumentalities, and fiscal agents shall be consistent with CMIA Treasury-State Agreements or the CMIA default procedures codified at 31 CFR part 205, "Withdrawal of Cash from the Treasury for Advances under Federal Grant and Other Programs."

(6) Written procedures for determining the reasonableness, allocability and allowability of costs in accordance with the provisions of the applicable Federal cost principles and the terms and conditions of the award.

(7) Accounting records including cost accounting records that are supported by source documentation.

(c) Where the City guarantees or insures the repayment of money borrowed by the Developers, The City, at its discretion, may require adequate bonding and insurance if the bonding and insurance requirements of the recipient are not deemed adequate to protect the interest of the City.

(d) The City may require adequate fidelity bond coverage where a certain developer lacks sufficient coverage to protect the City's interest.

(e) Where bonds are required in the situations described above, the bonds shall be obtained from companies holding certificates of authority as acceptable sureties, as prescribed in 31 CFR part 223, "Surety Companies Doing Business with the United States."

SECTION 19. RENEGOTIATION. This contract may be renegotiated in the event alternate sources of funding become available during the term of the contract.

SECTION 20. LEAD-BASED PAINT POISONING PREVENTION. Should HOME funding be utilized for rehabilitation of existing structures, the Developers will comply with the lead-based paint provisions at 24 CFR Part 35 and at 24 CFR 570.608, and Title X of the Housing and Community Development Act of 1992. Compliance will include all activities required by these regulations. The Developers also agree to document each client file with regard to these provisions, and action(s) taken if required. A copy of the current HUD Lead-Based Paint Certification will be retained in the file of each client assisted with HOME funds under this contract. The Developers will comply with the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4821 et seq.) and 24 CFR part 35. The project will comply with section 92.355 of the HOME rule. The Developers will also comply with the lead-based paint provisions of section 982.401(j) and the Lead-Based Paint provisions of the Section 8 Housing Quality Standards (HQS), irrespective of the applicable property standard under section 92.251. The Developers will comply with sections 1012 and 1013 of the Residential Lead-Based Paint Hazard Reduction Act of 1992 and the regulations found at 24 CFR part 35.

Section 21. TERMINATION FOR CONVENIENCE. The City may terminate this contract at any time by a notice in writing from the City to the Developers. If the contract is terminated by the City as provided herein, the Developers will be paid an amount which bears the same ratio to the total compensations the services actually performed bear to the total services of the Developers covered by this contract, less payments of compensation previously made: Provided, however, that if less than sixty (60) percent of the services covered by this contract have been performed upon the effective date of such termination, the Developers shall be reimbursed (in addition to the above payment) for that portion of the actual out-of-pocket expense (not otherwise reimbursed under this contract) incurred by the Developers during the contract period which are directly attributable to the uncompleted portion of the services covered by this contract. If this contract is terminated due to the fault of the Developers, Section 13 herein relative to termination shall apply.

SECTION 22. REFUND OF INCOME. All income earned by the project as a result of entitlement funds (program income) shall be accounted for and refunded to the City as it is received, unless otherwise specified in Exhibit B. Earned income shall be defined as fees received, subsidies, sales and any program income.

SECTION 23. REVERSION OF ASSETS. In the event this contract is terminated, due to breach, convenience, or expiration, the Developers agree to transfer ownership of any real property purchased with HOME funds under this agreement or any prior written agreement, to the City, upon written notification. This clause shall not apply if the project has been completed as contractually agreed, and the applicable affordability period has expired.

SECTION 24. OTHER FEDERAL REGULATIONS. Activities funded with HOME funds must comply with all of the following federal laws, executive orders and regulations pertaining to fair housing and equal opportunity, as follows:

Title VIII of the Civil Rights Act of 1968 (Fair Housing Act, (42 U.S.C. 3601-3620) As Amended, and implementing regulations at 24 CFR 100. The Fair Housing Act prohibits discrimination in the sale, rental and financing of dwellings and in other housing-related transactions, based on race, color, national origin, religion, sex, familial status, and disability.

Title VI of the Civil Rights Act of 1964, As Amended (42 U.S.C. 2000d et seq.). This law prohibits discrimination on the basis of race, color, and national origin in all Federally-assisted programs.

The Age Discrimination Act of 1975, As Amended (42 U.S.C. 6101), and implementing regulations at 24 CFR Part 146. This law prohibits age discrimination based on disability in all programs or activities operated by recipients of Federal financial assistance.

Equal Opportunity in Housing (Executive Order 11063, and Executive Order 12259), and implementing regulations at 24 CFR Part 107. These Executive Orders prohibit discrimination against individuals on the basis of race, color, religion, sex, and national origin in the sale, rental, leasing or other disposition of residential property, or in the use or occupancy of housing assisted with Federal funds.

Title II of the Americans with Disabilities Act (ADA). Title II of ADA prohibits discrimination against persons with disabilities in all programs, activities, and services of a public entity. (42 U.S.C. 12131; 47 U.S.C. 155, 201, 218, and 225)

SECTION 25. AFFORDABILITY. Housing assisted with HOME funds must meet the affordability requirements specified at 92.254 of the HOME Regulation (24 C.F.R. Part 92). HOME funds must be re-paid to the City if the housing does not meet the affordability requirements for the specified time period. The City will file a mortgage on each property upon purchase for redevelopment, and will hold said mortgage until such time as the property is re-sold to an owner-occupant homebuyer receiving a down payment and closing costs assistance loan through the City's HOMEownership 80 Program. The City will hold the long-term deed restriction placed on the property following the sale of the home as described within this paragraph.

SECTION 26. DISBURSEMENT OF HOME FUNDS. The Developers may not request disbursement of HOME funds under this agreement until the funds are needed for payment of eligible costs. Unless otherwise approved by the Housing and Community Services Department, payments to the Developers will be provided on a reimbursement basis, up to two times per month. The amount of each request will be limited to the amount needed. Developers must provide detailed records to substantiate the amount of HOME funds requested under this agreement, and must retain records, such as invoices, to substantiate said amounts.

SECTION 27. PROPERTY AND HOUSING STANDARDS. Housing that is constructed or rehabilitated with HOME funds must meet all applicable codes, rehabilitation standards, ordinances, and zoning ordinances at the time of project completion. Newly

constructed housing must meet the current edition of the Model Energy Code published by the Council of American Building Officials. (24 CFR 92.251)

SECTION 28. RELIGIOUS ORGANIZATIONS. Religious organizations may not require a beneficiary to participate in inherently religious activities, such as worship, religious instruction, or proselytizing.

Faith-based organizations may retain independence from Federal, state, and local governments to carry out their missions, including the definition, practice, and expression of its religious beliefs, provided that HOME funds do not financially support inherently religious activities. The organization's Board of Directors may not be selected based on religious practice. Religious references in the organization's mission statement and other governing documents are acceptable. 24 CFR 92.257(c).

Religious organizations must serve all eligible program beneficiaries without regard to religion, and may not restrict HOME-assisted housing to people of a particular religion or religious denomination. The eligibility of an applicant cannot be reliant on the applicant's participation in religious activities or programs supported by the organization, even if funded with other non-Federal sources.

SECTION 29. APPENDICES. All exhibits referenced in this contract, all amendments mutually agreed upon, and modifications made by both parties are hereby incorporated as though fully set forth herein.

Exhibit A: Revised Non-Discrimination & Equal Employment
Opportunity Statement

Exhibit B: Performance Criteria and Program Description

Exhibit C: Budget

Mennonite Housing Rehabilitation Services, Inc.

Signature

Title of MHRS Officer

Date

Community Housing Services of Wichita/Sedgwick County, Inc.

Signature

Title of CHS Officer

Date

Wichita Indochinese Center, Inc.

Signature

Title of WIC Officer

Date

Power CDC, Inc.

Signature

Title of POWER CDC Officer

Date

CITY OF WICHITA, KANSAS
at the Direction of the City Council

Carl Brewer, Mayor

Date

ATTEST:

Karen Sublett, City Clerk

Date

Approved as to Form:

Gary E. Rebenstorf, City Attorney
and Director of Law of the
City of Wichita

Date

**REVISED NON-DISCRIMINATION AND
EQUAL EMPLOYMENT OPPORTUNITY/AFFIRMATIVE ACTION PROGRAM
REQUIREMENTS STATEMENT FOR CONTRACTS OR AGREEMENTS**

During the term of this contract, the contractor or subcontractor, vendor or supplier of the City, by whatever term identified herein, shall comply with the following Non-Discrimination--Equal Employment Opportunity/Affirmative Action Program Requirements:

- A. During the performance of this contract, the contractor, subcontractor, vendor or supplier of the City, or any of its agencies, shall comply with all the provisions of the Civil Rights Act of 1964, as amended: The Equal Employment Opportunity Act of 1972; Presidential Executive Orders 11246, 11375, 11131; Part 60 of Title 41 of the Code of Federal Regulations; the Age Discrimination in Employment Act of 1967; the Americans with Disabilities Act of 1990 and laws, regulations or amendments as may be promulgated thereunder.
- B. Requirements of the State of Kansas:
 - 1. The contractor shall observe the provisions of the Kansas Act against Discrimination (Kansas Statutes Annotated 44-1001, et seq.) and shall not discriminate against any person in the performance of work under the present contract because of race, religion, color, sex, disability, and age except where age is a bona fide occupational qualification, national origin or ancestry;
 - 2. In all solicitations or advertisements for employees, the contractor shall include the phrase, "Equal Opportunity Employer", or a similar phrase to be approved by the "Kansas Human Rights Commission";
 - 3. If the contractor fails to comply with the manner in which the contractor reports to the "Kansas Human Rights Commission" in accordance with the provisions of K.S.A. 1976 Supp. 44-1031, as amended, the contractor shall be deemed to have breached this contract and it may be canceled, terminated or suspended in whole or in part by the contracting agency;
 - 4. If the contractor is found guilty of a violation of the Kansas Act against Discrimination under a decision or order of the "Kansas Human Rights Commission" which has become final, the contractor shall be deemed to have breached the present contract, and it may be canceled, terminated or suspended in whole or in part by the contracting agency;

5. The contractor shall include the provisions of Paragraphs 1 through 4 inclusive, of this Subsection B, in every subcontract or purchase so that such provisions will be binding upon such subcontractor or vendor.
- C. Requirements of the City of Wichita, Kansas, relating to Non-Discrimination -- Equal Employment Opportunity/Affirmative Action Program Requirements:
1. The vendor, supplier, contractor or subcontractor shall practice Non-Discrimination -- Equal Employment Opportunity in all employment relations, including but not limited to employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. The vendor, supplier, contractor or subcontractor shall submit an Equal Employment Opportunity or Affirmative Action Program, when required, to the Department of Finance of the City of Wichita, Kansas, in accordance with the guidelines established for review and evaluation;
 2. The vendor, supplier, contractor or subcontractor will, in all solicitations or advertisements for employees placed by or on behalf of the vendor, supplier, contractor or subcontractor, state that all qualified applicants will receive consideration for employment without regard to race, religion, color, sex, "disability, and age except where age is a bona fide occupational qualification", national origin or ancestry. In all solicitations or advertisements for employees the vendor, supplier, contractor or subcontractor shall include the phrase, "Equal Opportunity Employer", or a similar phrase;
 3. The vendor, supplier, contractor or subcontractor will furnish all information and reports required by the Department of Finance of said City for the purpose of investigation to ascertain compliance with Non-Discrimination -- Equal Employment Opportunity Requirements. If the vendor, supplier, contractor, or subcontractor fails to comply with the manner in which he/she or it reports to the City in accordance with the provisions hereof, the vendor, supplier, contractor or subcontractor shall be deemed to have breached the present contract, purchase order or agreement and it may be canceled, terminated or suspended in whole or in part by the City or its agency; and further Civil Rights complaints, or investigations may be referred to the State;
 4. The vendor, supplier, contractor or subcontractor shall include the provisions of Subsections 1 through 3 inclusive, of this present section in every subcontract, subpurchase order or subagreement so that such provisions will be binding upon each subcontractor, subvendor or subsupplier.
- D. Exempted from these requirements are:

1. Those contractors, subcontractors, vendors or suppliers who have less than four (4) employees, whose contracts, purchase orders or agreements cumulatively total less than five thousand dollars (\$5,000) during the fiscal year of said City are exempt from any further Equal Employment Opportunity or Affirmative Action Program submittal.
2. Those vendors, suppliers, contractors or subcontractors who have already complied with the provisions set forth in this section by reason of holding a contract with the Federal government or contract involving Federal funds; provided that such contractor, subcontractor, vendor or supplier provides written notification of a compliance review and determination of an acceptable compliance posture within a preceding forty-five (45) day period from the Federal agency involved.

Exhibit B

PERFORMANCE CRITERIA AND CONTRACT OBJECTIVES

It is mutually agreed and understood by the City of Wichita and the Developers, that execution of this contract obligates the Developers to the following performance requirements.

In return for the \$200,000 remuneration stated herein, the Developers agree to undertake an affordable housing program, which will result in the acquisition of existing vacant homes located within the boundaries of any of the City's six Local Investment Areas. The existing structures acquired for redevelopment must be vacant and unoccupied for a period of at least 90 days. A minimum of four, but no more than 11 single-family homes are to be rehabilitated/constructed/developed and sold to owner-occupant homebuyers.

Housing constructed under this agreement must be re-sold to HOME-compliant owner-occupant buyers, with down payment and closing costs assistance provided through the City's HOMEownership 80 program. The City will hold the deed restrictions for this HOME assistance. (24 CFR 92.254, Qualification as Affordable Housing, Homeownership.) The s represent and agree that their purchase of the properties and its other undertakings pursuant to this Agreement are, and will be, for the purpose of redevelopment of such property and not for speculation.

Each Developer represents and agrees that it will remain the owner of the properties developed with funding provided under this agreement, until it reaches an agreement with a prospective buyer(s) of the subject property and, by mutual agreement, the Developer will transfer title to the prospective buyer. All HOME assistance will be repaid to the City; except in cases where there are no net proceeds or where the net proceeds are insufficient to repay the full amount of assistance. Net proceeds will be considered funds available following adjustment for approved additional costs incurred by a Developer to prepare the property for ownership that were not collectable through sale of property. Funds that are not recoverable will be considered a development grant subsidy to the Developer.

I. Project Requirements

- A. Project must conform to regulations under 24 CFR Part 92. The HOME Investment Partnerships Program regulation. Specific references can be found as follows:

24 CFR 92.250, Maximum Per Unit Subsidy: The amount of HOME funds invested per unit may not exceed the per-unit dollar limits established under section 221 (d)(3)(ii) of the National Housing Act (12 U.S.C. 17151(d)(3)(ii)) for elevator-type projects that apply to the City of Wichita.

24 CFR 92.251, Property Standards: Housing constructed with HOME funds must meet all applicable local codes, ordinances and zoning ordinances at the time of project completion, and must comply with the current version of the CABO Model Energy Code. Housing must be inspected upon completion and throughout construction to verify compliance.

24 CFR 92.254(a)(2)(iii), Maximum Property Value: Housing created or acquired and rehabilitated with HOME funds must be modest in nature and affordable to a low-income buyer. The maximum purchase price or value cannot exceed 95 percent of median purchase price for the area, as determined by HUD.

- B. Prior to executing any contracts for sale of the assisted properties the Developers must confirm that the City has certified that the applicant household meets the HOME Program income requirements and that the household's eligibility has been verified through a review of source documentation in accordance with 24 CFR 92.203.

II. Program Content

- A. The use of HOME funds provided under this contract will be limited to the subsidy of actual costs involved in the acquisition of property, construction of homes, purchase and re-habilitation of existing homes, demolition, and the developer fees earned in connection with completion of each unit.

Funding under this agreement will be provided in the form of 0% loans to complete projects as approved on a case-by-case basis by the Department of Housing and Community Services.

- B. The purpose of this program is to provide a means for each Developer to address boarded-up or otherwise blighted, vacant homes and non-commercial structures in residential neighborhoods, located within one of the City's Local Investment Areas. Each agency will be able to apply for 0% loans to complete projects on a case-by-case basis. Priority will be given to boarded-up homes/structures located in the immediate neighborhood within which the applicable Developer is undertaking other rehabilitation projects. Consideration will also be given to homes referred by Neighborhood Associations that are identified in their annual plans as priority properties. In order to be eligible for program participation, the house or structure must be boarded-up, vacant or in an otherwise blighted condition. Properties donated or available for sale at/or below appraised value, and for which clear title can be obtained, will also be eligible. Special provisions will be made for abandoned properties for which title can be acquired.

Loans provided under this agreement will be provided on a first-come, first-served basis.

III. Administration

The President/C.E.O. of each Developer's organization will supervise operations and administration on a day-to-day basis. Each Developer's Board of Directors is ultimately responsible for program administration.

- A. Funding: It is mutually agreed by and between the City and the Developers that the total HOME funds available to the Developers for this project will be \$200,000.00, in the form of a forgivable development subsidy loan, to be used as set forth in the sections entitled Budget and Method of Payment.
- B. Budget: The City shall pay the Developers as hereinafter set out; the maximum of \$200,000.00 for the program described in this contract. A developer fee in the amount of 10% of the total development cost will be paid to a Developer completing a project under this agreement. The developer fee will be pre-determined at the onset of the construction of each home, and will be paid upon the closing of the sale of each individual home. Proceeds from the sale of homes, less the aforementioned developer fee, and applicable costs will be returned to the City, in the form of a payoff of development subsidy loans provided under this agreement. Contract payments over and above the original budgeted amount are contingent upon the sale of completed homes/projects, and extended grant authority as a result of repayments generated by the sale of completed homes. Extended grant authority may be utilized to develop additional housing units under the terms of this agreement. Funding under this agreement shall be originally budgeted as follows:

Contractual Expenses: (Acquisition, Demolition, Construction Expenses, Eligible Project Soft Costs deemed necessary and as approved by the Department of Housing and Community Services, Site Improvements, 10% Developer Fee.)

\$200,000.00

TOTAL \$200,000.00

- C. Method of Payment: The Developers agree that payments under this contract shall be made according to established budgeting, purchasing and accounting procedures of the City of Wichita and HOME.
1. The City and the Developers agree that the categories of expenditures and amounts are estimates and may vary during the course of the contract. Changes greater than \$10,000, other than those within the scope of this agreement must be approved by the City Council.

2. The Developers will ensure all costs are eligible according to the approved budget. The original documentation supporting any expenditure made under this agreement will be retained in the Developers' files for five (5) years after the final audit of expenditures made under this contract and throughout the applicable period of affordability.
3. Construction costs to be reimbursed based on direct costs and percentage completion, as determined by the City, of each project. Fully documented draw requests will be processed on Friday of the week submitted. Payment will be available for receipt by the Developers within three weeks of the Friday on which the draw request was received.

D. Records and Reports

1. Records shall be maintained documenting performance to be indicated in an annual report. Records are subject to review by the City.
2. **Each Developer undertaking projects under this agreement will provide, for the year ending June 30 of each year, beginning June 30, 2009, an annual report of the HOME funded portion of the program.** It shall indicate yearly expenditures, cumulative expenditures since program inception and balance remaining. Yearly expenditures will be identified by category of expenditure (acquisition, rehabilitation, developers fee, accounting & legal, architects). The report shall also indicate, by race and sex, the number of households/persons served during the year with HOME funds. The report shall also provide the total number of contracts awarded and the number of contracts awarded to minority-and women-owned businesses. The City reserves the right to change the due dates and contents of reports to be submitted under this clause.

The financial reports will be provided until such time as there are no expenditures. The owner shall continue to provide a report that indicates, by race and sex, the number of households/persons served during the year with HOME funds, when applicable. The report shall also provide the total number of contracts awarded and the number of contracts awarded to minority- and women-owned businesses. Said report shall be due to the City of Wichita **July 10** of each applicable year.

3. Additionally, a narrative or other description of progress may be provided.
4. Records shall be maintained valuing in-kind services, and donated goods and services, to be reported in the same manner as other annual reports.

IV. Conditions Precedent to Construction

The following items (matters) must be provided (completed) prior to beginning construction on the project and related improvements:

- A. Each Developer agrees to execute a document placing deed restrictions and covenants against properties on which projects are constructed, in order to comply with 24 CFR 92.254. Said restrictions and covenants will be in force until such time as a property/home is re-sold, as specified in this agreement.
- B. Provide a detailed overall project/unit budget, including but not limited to a Sources and Uses of Funds Statement.
- C. Provide Certificates regarding Debarment and Suspension, and/or lists of contractors/subcontractors to be utilized and other file documentation as requested by the City in order to comply with HOME regulations.
- D. Submit final construction plans, specifications and a budget for each home to be constructed for approval by the Housing and Community Services Department, City of Wichita. (Not in connection with plan review or obtaining applicable permits.) Individual home construction may not begin until a Notice to Proceed has been issued by the Housing and Community Services Department.
- E. Provide evidence that ownership interest in the property vests in the Developer seeking to undertake a project under this agreement. (Copy of Deed, and/or Title Insurance Binder/Policy)
- F. The Developer will notify the City of any properties it contracts to purchase, or intends to develop with funding provided under this agreement, in order for the City to complete the environmental reviews required under **24 CFR 92.352**, prior to closing of the purchase. Developer agrees to comply with all requirements imposed on a particular project/site as a result of the environmental review process.
- G. Each Developer will notify the City of any properties it contracts to purchase, in order for the City to complete the appropriate environmental reviews prior to closing of the purchase.
- H. Each Developer will obtain any and all permits required by the City prior to undertaking construction.
- I. Each Developer will obtain construction loans from private sector financial institutions, in an amount equivalent to a minimum of 50% of the appraised value of the home to be developed/constructed on each project site.

- J. Each Developer will obtain the approval of the City of Wichita Housing and Community Services Department for any changes to the previously submitted project plan. This includes changes in costs, as well as changes in the project scope or plans.
- K. Each Developer shall obtain Builder's Risk Insurance for the home to be constructed, in an amount sufficient to repay the amount of the face amount of the first mortgage construction loan, plus anticipated interest expense, and the total anticipated HOME funds investment in the project. Each Developer is also responsible for workers compensation insurance and general liability insurance.
- L. Any Developer receiving funding under this agreement shall not undertake construction, reconstruction or rehabilitation on a site contaminated by hazardous materials without undertaking a Phase I environmental assessment of the site in a form, scope and substance satisfactory to the City. The Developer shall consult with Wichita/Sedgwick County Department of Environmental Health regarding the necessity and scope of the environmental assessment. The developer shall remediate or cause to be remediated all contaminants and hazardous materials as required or recommended by the Wichita/Sedgwick County Department of Environmental Health. Such remediation shall be accomplished in accordance with the requirements of applicable environmental laws of the Kansas Department of Health and Environment, the federal Environmental Protection Agency and the U.S. Department of Housing and Urban Development. During the process of redevelopment and/or construction, should a Developer receiving funding under this agreement discover any soil staining or odors emanating from soil at the project site, the Developer must cease work immediately, and notify the City.

V. Other Program Requirements

- A. Each Developer agrees to adopt affirmative marketing procedures and requirements and prepare a written Affirmative Marketing Plan for this project. The Affirmative Marketing Plan must be available for public inspection in each Developer's office. The plan must contain specific steps and actions that each Developer will take to provide information and otherwise attract eligible persons for all racial, ethnic, and gender groups in the housing market area to the available housing. Specific activities that must be included in each Developer's Affirmative Marketing Plan include:
 - 1. Display the Equal Housing Opportunity logo, slogan or statement in all advertising material related to this project.

2. Display the HUD Equal Housing Opportunity logo, slogan or statement at the construction site, from the start of construction, and properly maintained throughout the construction and rental period.
 3. No later than 90 days prior to engaging in marketing activities, a Developer receiving funding under this agreement should notify the City of Wichita Housing and Community Services Department, either in writing or by telephone of the dates on which the Developer plans to: (1) begin initial marketing activities; (2) accept purchase contracts; and (3) start initial sales.
 4. Begin marketing activities 90 days prior to the anticipated date of availability for occupancy of the first unit of the project.
 5. Market/advertise the housing opportunity utilizing publications, such as community newspapers, in an effort to attract income-qualified homebuyers.
- B. The City and agents designated by the City shall, at all reasonable times during the development of the project and construction or rehabilitation, have the right of entry and free access to the project and all parts thereof, and the right to inspect all work done, labor performed and materials furnished in or about the project and all records relative to all payments made in connection with the project.
- Each Developer receiving funding for a project undertaken with funding provided under this agreement shall have the responsibility of maintaining the property until such time as the development project is complete and the newly constructed home has been sold to a HOME-eligible buyer.
- C. Site Improvements: The City will require each Developer to undertake site improvements upon completion of construction. Site improvements include, but are not limited to, sodding of front yards, and 4' chain-link fencing. Said site improvements must be undertaken when seasonally appropriate. The City reserves the right to make an exception on a case-by-case basis.
- D. Warranty: Each Developer must provide a one-year construction warranty for all homes constructed or rehabilitated under this contract.
- E. Each Developer is required to obtain insurance coverage for all perils, including vandalism, in an amount equivalent to the amount of the first mortgage construction loan balance plus interest, and the total HOME funds investment, in the event that a home constructed under this agreement has not sold, as of the day of completion, and the Builder's Risk Insurance Policy will no longer provide adequate coverage.
- F. Each Developer is responsible for retaining all records in connection with projects undertaken with funding provided under this contract, including but not limited to,

real estate purchase contracts, invoices, property development documentation, infrastructure development, and other records as further specified in this agreement.

- G. Each Developer shall apply for City incentives, as available, for projects undertaken with funding provided under this agreement, including property tax rebates and permit fee waivers.

VI. Program Evaluation

The City shall evaluate this project based on the objectives stated in this Exhibit. Failure by any Developer to provide the level of service stated herein may result in a determination by the City to modify the level of payment to that Developer on a pro rata basis with level of service. The Developers' records are subject to review by the City to ensure the accuracy and validity of information reported in monthly progress reports.

BUDGET

Contractual Expenses: (Acquisition, Demolition, Rehabilitation or Construction Expenses, Eligible Project Soft Costs deemed necessary and as approved by the Department of Housing and Community Services, Site Improvements, 10% Developer Fee.)

\$200,000.00

TOTAL

\$200,000.00

GRANT AGREEMENT

Between

**THE CITY OF WICHITA
HOUSING AND COMMUNITY SERVICES DEPARTMENT**

A

PARTICIPATING JURISDICTION

And

Community Housing Services of Wichita/Sedgwick County, Inc.,

A Community Housing Development Organization

HOME Investment Partnerships
Program

2008 CHDO Set-Aside Funding

Housing and Community Services Department
City of Wichita
332 N. Riverview
Wichita, Kansas 67203
Phone (316) 462-3700
Fax (316) 462-3719

No. _____

AGREEMENT

THIS CONTRACT, dated to be effective July 22, 2008, by and between the City of Wichita, Kansas (hereinafter referred to as the City) and Community Housing Services of Wichita/Sedgwick County, Inc. (CHS, a Community Housing Development Organization, hereinafter referred to as the "Developer").

WITNESSETH THAT:

WHEREAS, the City is entitled to receive a HOME Investment Partnerships Program Grant (hereinafter referred to as HOME), from the U.S. Department of Housing and Urban Development (hereinafter referred to as the "Department").

WHEREAS, the Developer is desirous of participating in activities eligible under HOME, and further agrees that the beneficiaries of its activities under the program and this agreement are, or will be, individuals or families who meet the income eligibility guidelines of Title 24 CFR Part 92.216/217 as applicable; and

WHEREAS, the purpose of the assistance to be provided under this agreement is specifically authorized by Title 24 CFR Section 92.300 (CHDO Funding); and

WHEREAS, the City deems the activities to be provided by the Developer as consistent with, and supportive of the HOME Investment Partnership Program, and that the Developer requires the financial assistance of the City to initiate its activities; and

WHEREAS, the cooperation of the City and the Developer is essential for the successful implementation of an Affordable Housing Program;

WHEREAS, the Developer shall be the responsible authority without recourse to the City regarding the settlement and satisfaction of all contractual and administrative issues arising out of this agreement;

NOW, THEREFORE, the contracting parties do mutually agree as follows:

SECTION 1. SCOPE OF SERVICES. The Developer must follow the Performance Criteria and Program Description as outlined in Exhibit B. Any programmatic change substantially altering the contract's original intent or financial change in contract amount or line items in the approved budget that is greater than \$10,000 shall require a written contract

amendment. The amendment shall be approved by the City Council and shall also be approved and signed by all parties to the original contract.

SECTION 2. TIME OF PERFORMANCE. The services of the Developer are to begin as soon as possible, on the date of this contract, and shall be undertaken and completed in such sequence as to assure their expeditious completion in light of the purposes of this contract. The construction phase of this contract shall be complete by December 31, 2010, with all expenses incurred on or before that date. This contract shall otherwise remain in force through the period of affordability, which will end on a date up to 15 years following the date of completion of the final unit, as defined in 24 CFR 92.2, depending on the amount of HOME funds invested in each unit of construction. Deed restrictions filed in connection with each unit will specify the applicable affordability period for the unit.

SECTION 3. RECORDS, REPORTS AND INSPECTION.

A. Establishment and Maintenance of Records. The Developer shall establish and maintain records as prescribed by the Department, and/or the City, with respect to all matters covered by this contract. Except as otherwise authorized by the Department and/or the City, the Developer shall (Per 24 CFR 92.508) **retain such records for a period of five years following the date final payment is received under this contract.**

B. Documentation of Costs. All costs shall be supported by properly executed payrolls, time records, invoices, contracts or vouchers, or other official documentation evidencing in proper detail the nature and propriety of the charges. All checks, payrolls, invoices, contracts, vouchers, orders or other accounting documents pertaining in whole or in part to this contract shall be clearly identified and readily accessible.

C. Reports and information. The Developer, at such times and in such forms as the City or its designated and authorized representative(s) may require, shall furnish to the City or its designated and authorized representative(s) such statements, records, reports, data and information as the City may request pertaining to matters covered by this contract.

D. Audits and Inspections. The Developer shall at any time and as often as the Housing and Community Services Department, or the City or the Comptroller General, or the Department of Housing and Urban Development, (HUD) or the HUD Inspector General of the United States may deem necessary, make available all its records and data for the purpose of making audits, reviews, examinations, excerpts and transcriptions.

SECTION 4. CONFLICT OF INTEREST. No owner, Developer or sponsor of a project assisted with HOME funds (or officer, employee, agent, elected or appointed official or consultant of the owner, Developer or sponsor) whether private, for profit or non-profit (including a Community Housing Development Organization (CHDO) when acting as an owner, developer or sponsor) may occupy a HOME-assisted affordable unit in a project. This provision does not apply to an individual who receives HOME funds to acquire or rehabilitate his or her principal residence or to an employee

or agent of the owner or Developer of a rental housing project who occupies a housing unit as the project manager or maintenance worker. (24 CFR 92.356 (f)(1)).

EXCEPTIONS: An exception may be granted in accordance and in compliance with 24 CFR 92.356 (f)(2)(I) through (V), and with the City's prior approval.

SECTION 5. DISCRIMINATION.

A. Discrimination Prohibited. No recipient or proposed recipient of any funds, services or other assistance under the provisions of this contract or any program related to this contract, shall be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity funded in whole or in part with the funds made available through this contract on the grounds of race, color, national origin, ancestry, religion, disability, sex or age. (Reference Title VI of the Civil Rights Act of 1964 (Pub. L. 88-352)). For purposes of this section, "program or activity" is defined as any function conducted by an identifiable administrative unit of the Developer receiving funds pursuant to this contract.

B. The Developer further agrees to implement and comply with the "Revised Non-Discrimination and Equal Employment Opportunity Statement for contracts or agreements" as provided in Exhibit A attached hereto.

C. The Developer will not discriminate against any employee or applicant for employment because of race, color, national origin, sex, or religion, in accordance with Executive Order 11246 – Equal Employment Opportunity, as amended and its implementing regulations at 41 CFR Part 60. If the Developer has fifteen or more employees, the Developer is prohibited from discriminating against any employee or applicant with a disability, in accordance with Title I of the Americans with Disabilities Act of 1990 (ADA). Nondiscrimination notices should be included in all job postings and posted in a visible place in the Developer's office.

SECTION 6. EMPLOYMENT OPPORTUNITIES FOR BUSINESSES AND LOWER INCOME PERSONS IN CONNECTION WITH ASSISTED PROJECTS.

A. GENERAL. Section 3 of the Housing and Urban Development Act of 1968, 12 U.S.C. 1701 u., and Sec. 7 (d), Department of HUD Act, 42 U.S.C. 3535 (d) is applicable to all projects assisted by any Department program in which loans, grants, subsidies or other financial assistance, including HOME Investment Partnerships Program under the Act are provided in aid of housing, urban planning, development, redevelopment or renewal, public or community facilities, and new community developments.

B. Assurance of Compliance.

1. The work to be performed under this contract is subject to the requirements of section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u

(Section 3). The purpose of Section 3 is to ensure that employment and other economic opportunities generated by HUD assistance or HUD-assisted projects covered by section 3, shall, to the greatest extent feasible, be directed to low- and very low-income persons, particularly persons who are recipients of HUD assistance for housing.

2. The parties to this contract will comply with the HUD's regulations in 24 CFR part 135, which implement section 3. As evidenced by their execution of this contract, the parties to this contract certify that they are under no contractual or other impediment that would prevent them from complying with the part 135 regulations.

3. The Developer agrees to send to each labor organization or representative of workers with which the owner has a collective bargaining agreement or other understanding, if any, a notice advising the labor organization or workers' representative of the contractor's commitments under this section 3 clause, and will post copies of the notice in conspicuous places at the work site where both employees and applicants for training and employment positions can see the notice. The notice shall describe the section 3 preference, shall set forth minimum number and job titles subject to hire, availability of apprenticeship and training positions, the qualifications for each; and the name and location of the person(s) taking applications for each of the positions; and the anticipated date the work shall begin.

4. The Developer agrees to include this section 3 clause in every subcontract subject to compliance with regulations in 24 CFR part 135, and agrees to take appropriate action, as provided in an applicable provision of the subcontract or in this section 3 clause, upon finding that the subcontractor is in violation of the regulations in 24 CFR part 135. The contractor will not subcontract with any subcontractor where the contractor has notice or knowledge that the subcontractor has been found in violation of the regulations in 24 CFR part 135.

5. The Developer will certify that any vacant employment positions, including training positions, that are filled (1) after the contractor is selected, but before the contract is executed, and (2) with persons other than those to whom the regulations of 24 CFR part 135 require employment opportunities to be directed, were not filled to circumvent the contractor's obligations under 24 CFR part 135.

6. Noncompliance with HUD's regulations in 24 CFR part 135 may result in sanctions, termination of this contract for default, and debarment or suspension from future HUD assisted contracts.

7. With respect to work performed in connection with section 3 covered Indian housing assistance, section 7(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450e) also applies to the work to be performed under this contract. Section 7(b) requires that to the greatest extent feasible (i) preference and opportunities for training and employment shall be given to Indians, and (ii) preference in the award of contracts and subcontracts shall be given to Indian organizations and Indian-owned Economic Enterprises. Parties to this contract that are subject

to the provisions of section 3 and section 7(b) agree to comply with section 3 to the maximum extent feasible, but not in derogation of compliance with section 7(b).

8. Every contract or agreement entered into by the Developer which involves funds provided under this contract will have incorporated therein subsection B of Section 6 of this contract.

9. In the event the Developer sells, leases, transfers or otherwise conveys land upon which work in connection with this project is to be performed, the City must be notified in writing, thirty (30) days prior to such action. Further, prior to sale or lease of property purchases, funded under this agreement, the Developer shall include in each contract or subcontract for work on such land, a clause requiring the purchaser, lessee or redeveloper to assume the same obligations as the Developer for work under subsection B of Section 6 of this contract. Each such purchaser, lessee or redeveloper shall be relieved of such obligations upon satisfactory completion of all work to be performed under the terms of the redevelopment contract.

SECTION 7. FEDERAL LABOR STANDARDS PROVISIONS. Except with respect to the rehabilitation or construction of residential property containing less than twelve units, the Developer and all contractors and subcontractors engaged under contracts in excess of \$2,000 for the construction, prosecution, completion or repair of any building or work financed in whole or in part with assistance provided under this contract **will comply with the Davis-Bacon Act** (40 U.S.C. 276 a to a-7), as supplemented by Department of Labor (DOL) regulations (29 CFR, Part 5), the Copeland "Anti-Kickback" Act (18 U.S.C. 874, and 40 U.S.C. 276c) as supplemented in DOL regulations (29 CFR, Part 3), sections 103 and 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327-333) as supplemented by DOL regulations (29 CFR, Part 5), and the regulations issued pursuant thereto, and the Fair Labor Standards Act of 1938, As Amended (29 U.S.C. 201, et seq.). **The Developer shall cause or require to be inserted in full, in all such contracts subject to such regulations, provisions consistent with applicable Federal Labor Standards.** No contracts under this section shall be awarded to any contractors or subcontractors debarred for violating Federal Labor Standards Provisions. **This Project does not include construction, prosecution, completion or repair of more than 11 units, and is exempt from Davis-Bacon Act wage requirements.**

The Developer shall take affirmative action to ensure that applicants for employment are employed, contractors or subcontractors receive contracts, and all employees are treated, without regard to their race, color, religion, sex, or national origin. Such action shall include, but not be limited to the following:

employment, recruitment or recruitment advertising,
contracting or subcontracting, promotion, demotion,
transfer, layoff, termination, rates of pay or other
forms of compensation, and selection for training
including apprenticeship.

The Developer shall incorporate the foregoing requirements of this paragraph in all of its contracts, except those exempt by law, and will require all of its contractors to incorporate such requirements in all subcontracts.

SECTION 503 AFFIRMATIVE ACTION FOR QUALIFIED INDIVIDUALS WITH DISABILITIES:

The Developer and any subcontractors will comply with the provisions of Section 503 of the Rehabilitation Act of 1973, if the funding award of their Agreement is \$2,500 or more, including, but not limited, to the following:

a) The Developer will not discriminate against any employee or applicant for employment because of disability in regard to any position for which the employee or applicant for employment is qualified.

b) The Developer agrees to take affirmative action to employ, advance in employment and otherwise treat qualified individuals with disabilities without discrimination based upon their disability in all employment practices, including, but not limited to, the following:

Employment, recruitment or recruitment advertising, contracting or subcontracting, promotion, demotion, transfer, layoff, termination, rates of pay or other forms of compensation, and selection for training including apprenticeship.

c) **The Developer agrees to post in conspicuous places, within administrative office and warehouse facilities available to employees and applicants for employment, notices, which make reference to the Developer's compliance with The Rehabilitation Act.** Such notices shall state the Developer's obligation under the law not to discriminate on the basis of physical or mental disability and to take affirmative action to employ and advance in employment qualified individuals with disabilities.

SECTION 8. COMPLIANCE WITH LOCAL LAWS. All parties shall comply with all applicable laws, ordinances, codes and regulations of the State of Kansas and local governments.

SECTION 9. ASSIGNABILITY. The Developer shall not assign any interest in this contract without prior written consent of the City.

SECTION 10. POLITICAL ACTIVITY PROHIBITED.

A. None of the funds, materials, property or services provided directly or indirectly under this contract, shall be used for partisan political activity.

B. The funds provided under this contract shall not be engaged in any way in contravention of Chapter 15 of Title 5, U.S.C.

SECTION 11. LOBBYING PROHIBITED. None of the funds provided under this contract shall be used for lobbying and/or propaganda purposes designed to support or defeat legislation pending before the Congress of the United States of America or the Legislature of the State of Kansas.

SECTION 12. PAYMENTS.

A. Compensation and Method of Payment. Compensation and method of payment to the Developer, relative to conducting the operations of the project activities and services as herein described, will be carried out as specified in Exhibit B attached hereto, and will be administered under the established accounting and fiscal policies of the City of Wichita.

B. Total Payments. Total Payment to the Developer will not exceed \$65,434.00 as referenced in Exhibit B. Contract payments above \$65,434.00 are contingent upon the sale of completed projects and extended grant authority as a result of program income generated by the project.

C. Restriction on Disbursements. No Entitlement Funds shall be disbursed to the Developer or contractor except pursuant to a written contract, which incorporates by reference the general conditions of this contract.

D. Unearned Payments. Under this contract unearned payments may be suspended or terminated if the entitlement funds to the City of Wichita under the HOME Investment Partnerships Program (24 CFR Part 92) are suspended or terminated.

SECTION 13. TERMINATION CLAUSE. Upon breach of the contract by the Developer, the City, by giving written notification, may terminate this contract immediately. A breach shall include, but not be limited to, failure to comply with any or all items contained within Section 1 through Section 29, Exhibits and/or provisions of any subsequent contractual amendments executed relative to this contract. In the event of a breach of contract, the Developer agrees to re-pay any HOME funds advanced under this agreement.

SECTION 14. AMENDMENTS.

A. To provide necessary flexibility for the most effective execution of this project, whenever both the City and the Developer mutually agree, changes to this contract may be effected by placing them in written form and incorporating them into this contract.

B. Programmatic changes substantially altering the contract's original intent or financial changes in contract amount or line items in the approved budget (Exhibit C) that are greater than \$10,000 shall require a written contract amendment. The amendment must be approved by the City Council and must also be approved and signed by all parties to the original contract.

SECTION 15. POLLUTION STANDARDS. In the event the grand total of Exhibit C is in excess of \$100,000, the Developer agrees to comply with all applicable standards, orders, or regulations issued pursuant to the Clean Air Act of 1970 (42 U.S.C. 185, et seq.) and the Federal Water Pollution Control Act (33 U.S.C.1251, et seq.), As Amended.

SECTION 16. ARCHITECTURAL BARRIERS. Every building or facility (other than a private residential structure) designed, constructed or altered with funds provided pursuant to this contract shall be designed, altered or constructed in accordance with the standards issued under the Architectural Barriers Act of 1968 (42 USC 4151 et. seq.), as amended, and the minimum guidelines and requirements issued by the Architectural and Transportation Compliance Board pursuant to Section 502 (b.) (3.) of the Rehabilitation Act of 1973 (29 USC 792 (b.) (3.) as amended, and Section 504 of the Rehabilitation Act of 1973.

The Section 504 implementing regulations (24 CFR Part 8) apply to this project. Newly constructed or rehabilitated housing for purchase or single-family housing developed with Federal funds must be made accessible upon the request of the prospective buyer if the nature of the prospective occupant's disability so requires. Should a prospective buyer request a modification to make a unit accessible, the owner/developer must work with the buyer to provide specific features that meet the need(s) of the prospective homebuyer/occupant. If the design features that are needed for the buyer are design features that are covered in the Uniform Federal Accessibility Standards (UFAS), those features must comply with the UFAS standard. The Developer shall be permitted to depart from the standard in order to have the buyer/occupant's needs met.

Multi-family dwellings must also meet the design and construction requirements at 24 CFR 100.205, which implement the Fair Housing Act (42 U.S.C. 3601-19), and Section 504 of the Rehabilitation Act of 1973, as applicable.

SECTION 17. ANTI-TRUST LITIGATION. For good cause, and as consideration for executing this contract, the Developer, acting herein by and through its authorized agent, hereby conveys, sells, assigns and transfers to the City of Wichita all right, title and interest in and to all causes of action it may now or hereafter acquire under the anti-trust laws of the United States and the State of Kansas, relating to the particular product, products, or services purchased or acquired by the Developer pursuant to this contract.

SECTION 18. UNIFORM GRANT ADMINISTRATIVE REQUIREMENTS AND COST PRINCIPLES. During the administration of this contract, the Developer shall comply with 24 CFR 84.21, Standards for financial management systems, as follows:

(a) Developer is required to relate financial data to performance data and develop unit cost information whenever practical.

(b) Developer's financial management systems shall provide for the following:

(1) Accurate, current and complete disclosure of the financial results of each federally-sponsored project or program in accordance with the reporting requirements set forth in §84.52. If a recipient maintains its records on other than an accrual basis, the Developer shall not be required to establish an accrual accounting system. The Developer may develop such accrual data for reports on the basis of an analysis of the documentation on hand.

- (2) Records that identify adequately the source and application of funds for federally-sponsored activities. These records shall contain information pertaining to Federal awards, authorizations, obligations, unobligated balances, assets, outlays, income and interest.
 - (3) Effective control over and accountability for all funds, property and other assets. The Developer shall adequately safeguard all such assets and assure they are used solely for authorized purposes.
 - (4) Comparison of outlays with budget amounts for each award. Whenever appropriate, financial information should be related to performance and unit cost data.
 - (5) Written procedures to minimize the time elapsing between the transfer of funds to the developer from the City, and the issuance or redemption of checks, warrants or payments by other means for program purposes by the Developer. To the extent that the provisions of the Cash Management Improvement Act (CMIA) (Pub. L. 101-453) govern, payment methods of State agencies, instrumentalities, and fiscal agents shall be consistent with CMIA Treasury-State Agreements or the CMIA default procedures codified at 31 CFR part 205, "Withdrawal of Cash from the Treasury for Advances under Federal Grant and Other Programs."
 - (6) Written procedures for determining the reasonableness, allocability and allowability of costs in accordance with the provisions of the applicable Federal cost principles and the terms and conditions of the award.
 - (7) Accounting records including cost accounting records that are supported by source documentation.
- (c) Where the City guarantees or insures the repayment of money borrowed by the Developer, The City, at its discretion, may require adequate bonding and insurance if the bonding and insurance requirements of the recipient are not deemed adequate to protect the interest of the City.
- (d) The City may require adequate fidelity bond coverage where the Developer lacks sufficient coverage to protect the City's interest.
- (e) Where bonds are required in the situations described above, the bonds shall be obtained from companies holding certificates of authority as acceptable sureties, as prescribed in 31 CFR part 223, "Surety Companies Doing Business with the United States."

SECTION 19. RENEGOTIATION. This contract may be renegotiated in the event alternate sources of funding become available during the term of the contract.

SECTION 20. LEAD-BASED PAINT POISONING PREVENTION. Should HOME funding be utilized for rehabilitation of existing structures, the Developer will comply with the lead-based paint provisions at 24 CFR Part 35 and at 24 CFR 570.608, and Title X of the Housing and Community Development Act of 1992. Compliance will include all activities

required by these regulations. The Developer also agrees to document each client file with regard to these provisions, and action(s) taken if required. A copy of the current HUD Lead-Based Paint Certification will be retained in the file of each client assisted with HOME funds under this contract. The Developer will comply with the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4821 et seq.) and 24 CFR part 35. The project will comply with section 92.355 of the HOME rule. The Developer will also comply with the lead-based paint provisions of section 982.401(j) and the Lead-Based Paint provisions of the Section 8 Housing Quality Standards (HQS), irrespective of the applicable property standard under section 92.251. The Developer will comply with sections 1012 and 1013 of the Residential Lead-Based Paint Hazard Reduction Act of 1992 and the regulations found at 24 CFR part 35.

Section 21. TERMINATION FOR CONVENIENCE. The City may terminate this contract at any time by a notice in writing from the City to the Developer. If the contract is terminated by the City as provided herein, the Developer will be paid an amount which bears the same ratio to the total compensations the services actually performed bear to the total services of the Developer covered by this contract, less payments of compensation previously made: Provided, however, that if less than sixty (60) percent of the services covered by this contract have been performed upon the effective date of such termination, the Developer shall be reimbursed (in addition to the above payment) for that portion of the actual out-of-pocket expense (not otherwise reimbursed under this contract) incurred by the Developer during the contract period which are directly attributable to the uncompleted portion of the services covered by this contract. If this contract is terminated due to the fault of the Developer, Section 13 herein relative to termination shall apply.

SECTION 22. REFUND OF INCOME. All income earned by the project as a result of entitlement funds (program income) shall be accounted for and refunded to the City as it is received, unless otherwise specified in Exhibit B. Earned income shall be defined as fees received, subsidies, sales and any program income.

SECTION 23. REVERSION OF ASSETS. In the event this contract is terminated, due to breach, convenience, or expiration, the Developer agrees to transfer ownership of any real property purchased with HOME funds under this agreement or any prior written agreement, to the City, upon written notification. This clause shall not apply if the project has been completed as contractually agreed, and the applicable affordability period has expired.

SECTION 24. OTHER FEDERAL REGULATIONS. Activities funded with HOME funds must comply with all of the following federal laws, executive orders and regulations pertaining to fair housing and equal opportunity, as follows:

Title VIII of the Civil Rights Act of 1968 (Fair Housing Act, (42 U.S.C. 3601-3620) As Amended, and implementing regulations at 24 CFR 100. The Fair Housing Act prohibits discrimination in the sale, rental and financing of dwellings and in other housing-related transactions, based on race, color, national origin, religion, sex, familial status, and disability.

Title VI of the Civil Rights Act of 1964, As Amended (42 U.S.C. 2000d et seq.). This law prohibits discrimination on the basis of race, color, and national origin in all Federally-assisted programs.

The Age Discrimination Act of 1975, As Amended (42 U.S.C. 6101), and implementing regulations at 24 CFR Part 146. This law prohibits age discrimination based on disability in all programs or activities operated by recipients of Federal financial assistance.

Equal Opportunity in Housing (Executive Order 11063, and Executive Order 12259), and implementing regulations at 24 CFR Part 107. These Executive Orders prohibit discrimination against individuals on the basis of race, color, religion, sex, and national origin in the sale, rental, leasing or other disposition of residential property, or in the use or occupancy of housing assisted with Federal funds.

Title II of the Americans with Disabilities Act (ADA). Title II of ADA prohibits discrimination against persons with disabilities in all programs, activities, and services of a public entity. (42 U.S.C. 12131; 47 U.S.C. 155, 201, 218, and 225)

SECTION 25. AFFORDABILITY. Housing assisted with HOME funds must meet the affordability requirements specified at 92.254 of the HOME Regulation (24 C.F.R. Part 92). HOME funds must be re-paid to the City if the housing does not meet the affordability requirements for the specified time period. The City will file a mortgage on each property upon purchase for redevelopment, and will hold said mortgage until such time as the property is re-sold to an owner-occupant homebuyer receiving a down payment and closing costs assistance loan through the City's HOMEownership 80 Program. The City will hold the long-term deed restriction placed on the property following the sale of the home as described within this paragraph.

SECTION 26. DISBURSEMENT OF HOME FUNDS. The Developer may not request disbursement of HOME funds under this agreement until the funds are needed for payment of eligible costs. Unless otherwise approved by the Housing and Community Services Department, payments to the Developer will be provided on a reimbursement basis, up to two times per month. The amount of each request will be limited to the amount needed. Developer must provide detailed records to substantiate the amount of HOME funds requested under this agreement, and must retain records, such as invoices, to substantiate said amounts.

SECTION 27. PROPERTY AND HOUSING STANDARDS. Housing that is constructed or rehabilitated with HOME funds must meet all applicable codes, rehabilitation standards, ordinances, and zoning ordinances at the time of project completion. Newly constructed housing must meet the current edition of the Model Energy Code published by the Council of American Building Officials. (24 CFR 92.251)

SECTION 28. RELIGIOUS ORGANIZATIONS. Religious organizations may not require a beneficiary to participate in inherently religious activities, such as worship, religious instruction, or proselytizing.

Faith-based organizations may retain independence from Federal, state, and local governments to carry out their missions, including the definition, practice, and expression of its religious beliefs, provided that HOME funds do not financially support inherently religious activities. The organization's Board of Directors may not be selected based on religious practice. Religious references in the organization's mission statement and other governing documents are acceptable. 24 CFR 92.257(c).

Religious organizations must serve all eligible program beneficiaries without regard to religion, and may not restrict HOME-assisted housing to people of a particular religion or religious denomination. The eligibility of an applicant cannot be reliant on the applicant's participation in religious activities or programs supported by the organization, even if funded with other non-Federal sources.

SECTION 29. APPENDICES. All exhibits referenced in this contract, all amendments mutually agreed upon, and modifications made by both parties are hereby incorporated as though fully set forth herein.

Exhibit A: Revised Non-Discrimination & Equal Employment
Opportunity Statement

Exhibit B: Performance Criteria and Program Description

Exhibit C: Budget

Community Housing Services of Wichita/Sedgwick County, Inc.

Signature

Title of CHS Officer

Date

**CITY OF WICHITA, KANSAS
at the Direction of the City Council**

Carl Brewer, Mayor

Date

ATTEST:

Karen Sublett, City Clerk

Date

Approved as to Form:

Gary E. Rebenstorf, City Attorney
and Director of Law of the
City of Wichita

Date

**REVISED NON-DISCRIMINATION AND
EQUAL EMPLOYMENT OPPORTUNITY/AFFIRMATIVE ACTION PROGRAM
REQUIREMENTS STATEMENT FOR CONTRACTS OR AGREEMENTS**

During the term of this contract, the contractor or subcontractor, vendor or supplier of the City, by whatever term identified herein, shall comply with the following Non-Discrimination--Equal Employment Opportunity/Affirmative Action Program Requirements:

- A. During the performance of this contract, the contractor, subcontractor, vendor or supplier of the City, or any of its agencies, shall comply with all the provisions of the Civil Rights Act of 1964, as amended: The Equal Employment Opportunity Act of 1972; Presidential Executive Orders 11246, 11375, 11131; Part 60 of Title 41 of the Code of Federal Regulations; the Age Discrimination in Employment Act of 1967; the Americans with Disabilities Act of 1990 and laws, regulations or amendments as may be promulgated thereunder.
- B. Requirements of the State of Kansas:
 - 1. The contractor shall observe the provisions of the Kansas Act against Discrimination (Kansas Statutes Annotated 44-1001, et seq.) and shall not discriminate against any person in the performance of work under the present contract because of race, religion, color, sex, disability, and age except where age is a bona fide occupational qualification, national origin or ancestry;
 - 2. In all solicitations or advertisements for employees, the contractor shall include the phrase, "Equal Opportunity Employer", or a similar phrase to be approved by the "Kansas Human Rights Commission";
 - 3. If the contractor fails to comply with the manner in which the contractor reports to the "Kansas Human Rights Commission" in accordance with the provisions of K.S.A. 1976 Supp. 44-1031, as amended, the contractor shall be deemed to have breached this contract and it may be canceled, terminated or suspended in whole or in part by the contracting agency;
 - 4. If the contractor is found guilty of a violation of the Kansas Act against Discrimination under a decision or order of the "Kansas Human Rights Commission" which has become final, the contractor shall be deemed to have breached the present contract, and it may be canceled, terminated or suspended in whole or in part by the contracting agency;

5. The contractor shall include the provisions of Paragraphs 1 through 4 inclusive, of this Subsection B, in every subcontract or purchase so that such provisions will be binding upon such subcontractor or vendor.
- C. Requirements of the City of Wichita, Kansas, relating to Non-Discrimination -- Equal Employment Opportunity/Affirmative Action Program Requirements:
1. The vendor, supplier, contractor or subcontractor shall practice Non-Discrimination -- Equal Employment Opportunity in all employment relations, including but not limited to employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. The vendor, supplier, contractor or subcontractor shall submit an Equal Employment Opportunity or Affirmative Action Program, when required, to the Department of Finance of the City of Wichita, Kansas, in accordance with the guidelines established for review and evaluation;
 2. The vendor, supplier, contractor or subcontractor will, in all solicitations or advertisements for employees placed by or on behalf of the vendor, supplier, contractor or subcontractor, state that all qualified applicants will receive consideration for employment without regard to race, religion, color, sex, "disability, and age except where age is a bona fide occupational qualification", national origin or ancestry. In all solicitations or advertisements for employees the vendor, supplier, contractor or subcontractor shall include the phrase, "Equal Opportunity Employer", or a similar phrase;
 3. The vendor, supplier, contractor or subcontractor will furnish all information and reports required by the Department of Finance of said City for the purpose of investigation to ascertain compliance with Non-Discrimination -- Equal Employment Opportunity Requirements. If the vendor, supplier, contractor, or subcontractor fails to comply with the manner in which he/she or it reports to the City in accordance with the provisions hereof, the vendor, supplier, contractor or subcontractor shall be deemed to have breached the present contract, purchase order or agreement and it may be canceled, terminated or suspended in whole or in part by the City or its agency; and further Civil Rights complaints, or investigations may be referred to the State;
 4. The vendor, supplier, contractor or subcontractor shall include the provisions of Subsections 1 through 3 inclusive, of this present section in every subcontract, subpurchase order or subagreement so that such provisions will be binding upon each subcontractor, subvendor or subsupplier.
- D. Exempted from these requirements are:

1. Those contractors, subcontractors, vendors or suppliers who have less than four (4) employees, whose contracts, purchase orders or agreements cumulatively total less than five thousand dollars (\$5,000) during the fiscal year of said City are exempt from any further Equal Employment Opportunity or Affirmative Action Program submittal.
2. Those vendors, suppliers, contractors or subcontractors who have already complied with the provisions set forth in this section by reason of holding a contract with the Federal government or contract involving Federal funds; provided that such contractor, subcontractor, vendor or supplier provides written notification of a compliance review and determination of an acceptable compliance posture within a preceding forty-five (45) day period from the Federal agency involved.

Exhibit B

PERFORMANCE CRITERIA AND CONTRACT OBJECTIVES

It is mutually agreed and understood by the City of Wichita and Community Housing Services of Wichita/Sedgwick County, Inc., hereinafter referred to as the "City" and "Developer" (or CHS) respectively, that execution of this contract obligates the Developer to the following performance requirements.

The Developer, a Community Housing Development Organization (CHDO), is receiving this grant funding as CHDO Set-Aside Funding, under HOME regulations, as specified in 24 CFR 92.300.

In return for the \$65,434 remuneration stated herein, the Developer agrees to undertake an affordable housing program, which will result in the acquisition of existing vacant homes or vacant lots located within the boundaries of any of the City's six Local Investment Areas. Existing structures acquired for redevelopment must be vacant and unoccupied for a period of at least 90 days, and must be demolished with a new single-family home to be constructed on each site. Vacant lots must also be re-developed with new single family home on each site. A minimum of two new single-family homes are to be constructed/developed and sold to owner-occupant homebuyers.

Housing constructed under this agreement must be re-sold to HOME-compliant owner-occupant buyers, with down payment and closing costs assistance provided through the City's HOMEownership 80 program. The City will hold the deed restrictions for this HOME assistance. (24 CFR 92.254, Qualification as Affordable Housing, Homeownership.) The Developer represents and agrees that its purchase of the properties and its other undertakings pursuant to this Agreement are, and will be, for the purpose of redevelopment of such property and not for speculation.

The Developer represents and agrees that it will remain the owner of the properties until it reaches agreement with a prospective buyer(s) of the properties and, by mutual agreement, the Developer will transfer title to the prospective buyer. All HOME assistance will be repaid to the City; except in cases where there are no net proceeds or where the net proceeds are insufficient to repay the full amount of assistance. Net proceeds will be considered funds available following adjustment for approved additional costs incurred by the Developer to prepare the property for ownership that were not collectable through sale of property. Funds that are not recoverable will be considered a development grant subsidy to the Developer.

I. Project Requirements

- A. Project must conform to regulations under 24 CFR Part 92. The HOME Investment Partnerships Program regulation. Specific references can be found as follows:

24 CFR 92.250, Maximum Per Unit Subsidy: The amount of HOME funds invested per unit may not exceed the per-unit dollar limits established under section 221 (d)(3)(ii) of the National Housing Act (12 U.S.C. 17151(d)(3)(ii)) for elevator-type projects that apply to the City of Wichita.

24 CFR 92.251, Property Standards: Housing constructed with HOME funds must meet all applicable local codes, ordinances and zoning ordinances at the time of project completion, and must comply with the current version of the CABO Model Energy Code. Housing must be inspected upon completion and throughout construction to verify compliance.

24 CFR 92.254(a)(2)(iii), Maximum Property Value: Housing created or acquired and rehabilitated with HOME funds must be modest in nature and affordable to a low-income buyer. The maximum purchase price or value cannot exceed 95 percent of median purchase price for the area, as determined by HUD.

- B. Prior to executing any contracts for sale of the assisted properties the Developer must confirm that the City has certified that the applicant household meets the HOME Program income requirements and that the household's eligibility has been verified through a review of source documentation in accordance with 24 CFR 92.203.

II. Program Content

- A. The use of HOME funds provided under this contract will be limited to the subsidy of actual costs involved in the acquisition of property, construction of homes, purchase and re-habilitation of existing homes, demolition, and the developer fees earned in connection with completion of each unit.

Funding under this agreement will be provided in the form of 0% loans to complete projects as approved on a case-by-case basis by the Department of Housing and Community Services.

Developer shall obtain construction loans in order to leverage HOME funds construction investment, in an amount equivalent to 50% or more of the appraised value of the home to be constructed.

III. Administration

The CHS President/C.E.O. will supervise operations and administration on a day-to-day basis. The CHS Board of Directors is ultimately responsible for program administration.

- A. Funding: It is mutually agreed by and between the City and the Developer that the total HOME funds available to CHS for this project will be \$65,434.00, in the form of a forgivable development subsidy loan, to be used as set forth in the sections entitled Budget and Method of Payment.
- B. Budget: The City shall pay the Developer as hereinafter set out; the maximum of \$65,434.00 for the program described in this contract. A developer fee in the amount of 10% of the total development cost will be paid to the Developer in connection with each completed project. The developer fee will be pre-determined at the onset of the construction of each home, and will be paid upon the closing of the sale of each individual home. Proceeds from the sale of homes, less the aforementioned developer fee, and applicable costs will be returned to the City, in the form of a payoff of development subsidy loans provided under this agreement. Contract payments over and above the original budgeted amount are contingent upon the sale of completed homes/projects, and extended grant authority as a result of repayments generated by the sale of completed homes. Extended grant authority may be utilized to develop additional housing units under the terms of this agreement. Funding under this agreement shall be originally budgeted as follows:

Contractual Expenses: (Acquisition, Demolition, Construction Expenses, Eligible Project Soft Costs deemed necessary and as approved by the Department of Housing and Community Services, Site Improvements, 10% Developer Fee.)

\$65,434.00

TOTAL \$65,434.00

- C. Method of Payment: The Developer agrees that payments under this contract shall be made according to established budgeting, purchasing and accounting procedures of the City of Wichita and HOME.
1. The City and CHS also agree that the categories of expenditures and amounts are estimates and may vary during the course of the contract. Changes greater than \$10,000, other than those within the scope of this agreement must be approved by the City Council.
 2. CHS will ensure all costs are eligible according to the approved budget. The original documentation supporting any expenditure made under this agreement will be retained in the Developer's files for five (5) years after the final audit of expenditures made under this contract and throughout the applicable period of affordability.

3. Construction costs to be reimbursed based on direct costs and percentage completion, as determined by the City, of each project. Fully documented draw requests will be processed on Friday of the week submitted. Payment will be available for receipt by the Developer within three weeks of the Friday on which the draw request was received.

D. Records and Reports

1. Records shall be maintained documenting performance to be indicated in an annual report. Records are subject to review by the City.
2. **The Developer will provide, for the year ending June 30 of each year, beginning June 30, 2009, an annual report of the HOME funded portion of the program.** It shall indicate yearly expenditures, cumulative expenditures since program inception and balance remaining. Yearly expenditures will be identified by category of expenditure (acquisition, rehabilitation, developers fee, accounting & legal, architects). The report shall also indicate, by race and sex, the number of households/persons served during the year with HOME funds. The report shall also provide the total number of contracts awarded and the number of contracts awarded to minority-and women-owned businesses. The City reserves the right to change the due dates and contents of reports to be submitted under this clause.

The financial reports will be provided until such time as there are no expenditures. The owner shall continue to provide a report that indicates, by race and sex, the number of households/persons served during the year with HOME funds, when applicable. The report shall also provide the total number of contracts awarded and the number of contracts awarded to minority- and women-owned businesses. Said report shall be due to the City of Wichita **July 10** of each applicable year.

3. Additionally, a narrative or other description of progress may be provided.
4. Records shall be maintained valuing in-kind services, and donated goods and services, to be reported in the same manner as other annual reports.

IV. Conditions Precedent to Construction

The following items (matters) must be provided (completed) prior to beginning construction on the project and related improvements:

- A. The Developer agrees to execute a document placing deed restrictions and covenants against properties on which projects are constructed, in order to comply

with 24 CFR 92.254. Said restrictions and covenants will be in force until such time as a property/home are re-sold, as specified in this agreement.

- B. Provide a detailed overall project/unit budget, including but not limited to a Sources and Uses of Funds Statement.
- C. Provide Certificates regarding Debarment and Suspension, and/or lists of contractors/subcontractors to be utilized and other file documentation as requested by the City in order to comply with HOME regulations.
- D. Submit final construction plans, specifications and a budget for each home to be constructed for approval by the Housing and Community Services Department, City of Wichita. (Not in connection with plan review or obtaining applicable permits.) Individual home construction may not begin until a Notice to Proceed has been issued by the Housing and Community Services Department.
- E. Provide evidence that ownership interest in the property vests in CHS, Inc.. (Copy of Deed, and/or Title Insurance Binder/Policy)
- F. The Developer will notify the City of any properties it contracts to purchase, or intends to develop with funding provided under this agreement, in order for the City to complete the environmental reviews required under **24 CFR 92.352**, prior to closing of the purchase. Developer agrees to comply with all requirements imposed on a particular project/site as a result of the environmental review process.
- G. The Developer will notify the City of any properties it contracts to purchase, in order for the City to complete the appropriate environmental reviews prior to closing of the purchase.
- H. The Developer will obtain any and all permits required by the City prior to undertaking construction.
- I. The Developer will obtain construction loans from private sector financial institutions, in an amount equivalent to a minimum of 50% of the appraised value of the home to be developed/constructed on each project site.
- J. The Developer will obtain the approval of the City of Wichita Housing and Community Services Department for any changes to the previously submitted project plan. This includes changes in costs, as well as changes in the project scope or plans.
- K. The Developer shall obtain Builder's Risk Insurance for the home to be constructed, in an amount sufficient to repay the amount of the face amount of the first mortgage construction loan, plus anticipated interest expense, and the total anticipated HOME

funds investment in the project. The Developer is also responsible for workers compensation insurance and general liability insurance.

- L. The Developer shall not undertake construction, reconstruction or rehabilitation on a site contaminated by hazardous materials without undertaking a Phase I environmental assessment of the site in a form, scope and substance satisfactory to the City. The Developer shall consult with Wichita/Sedgwick County Department of Environmental Health regarding the necessity and scope of the environmental assessment. The Developer shall remediate or cause to be remediated all contaminants and hazardous materials as required or recommended by the Wichita/Sedgwick County Department of Environmental Health. Such remediation shall be accomplished in accordance with the requirements of applicable environmental laws of the Kansas Department of Health and Environment, the federal Environmental Protection Agency and the U.S. Department of Housing and Urban Development. During the process of redevelopment and/or construction, should the Developer discover any soil staining or odors emanating from soil at the project site, the Developer must cease work immediately, and notify the City.

V. Other Program Requirements

- A. The Developer agrees to adopt affirmative marketing procedures and requirements and prepare a written Affirmative Marketing Plan for this project. The Affirmative Marketing Plan must be available for public inspection in the Developer's office. The plan must contain specific steps and actions that the Developer will take to provide information and otherwise attract eligible persons for all racial, ethnic, and gender groups in the housing market area to the available housing. Specific activities that must be included in the Developer's Affirmative Marketing Plan include:
 - 1. Display the Equal Housing Opportunity logo, slogan or statement in all advertising material related to this project.
 - 2. Display the HUD Equal Housing Opportunity logo, slogan or statement at the construction site, from the start of construction, and properly maintained throughout the construction and rental period.
 - 3. No later than 90 days prior to engaging in marketing activities, the Developer should notify the City of Wichita Housing and Community Services Department, either in writing or by telephone of the dates on which the Developer plans to: (1) begin initial marketing activities; (2) accept purchase contracts; and (3) start initial sales.

4. The Developer must begin marketing activities 90 days prior to the anticipated date of availability for occupancy of the first unit of the project.
 5. The Developer must market/advertise the housing opportunity utilizing publications, such as community newspapers, in an effort to attract income-qualified homebuyers.
- B. The City and agents designated by the City shall, at all reasonable times during the development of the project and construction or rehabilitation, have the right of entry and free access to the project and all parts thereof, and the right to inspect all work done, labor performed and materials furnished in or about the project and all records relative to all payments made in connection with the project.

The Developer shall have the responsibility of maintaining the property until such time as the development project is complete and the newly constructed home has been sold to a HOME-eligible buyer.

- C. Site Improvements: The City will require a Developer to undertake site improvements upon completion of construction. Site improvements include, but are not limited to, sodding of front yards, and 4' chain-link fencing. Said site improvements must be undertaken when seasonally appropriate. The City reserves the right to make an exception on a case-by-case basis.
- D. Warranty: The Developer must provide a one-year construction warranty for all homes constructed or rehabilitated under this contract.
- E. Developer is required to obtain insurance coverage for all perils, including vandalism, in an amount equivalent to the amount of the first mortgage construction loan balance plus interest, and the total HOME funds investment, in the event that a home constructed under this agreement has not sold, as of the day of completion, and the Builder's Risk Insurance Policy will no longer provide adequate coverage.
- F. Developer is responsible for retaining all records in connection with projects undertaken with HOME funding provided under this contract, including but not limited to, real estate purchase contracts, invoices, property development documentation, infrastructure development, and other records as further specified in this agreement.
- G. Developer shall apply for City incentives, as available, for projects undertaken with funding provided under this agreement, including property tax rebates and permit fee waivers.

VI. Program Evaluation

The City shall evaluate this project based on the objectives stated in this Exhibit. Failure by the Developer to provide the level of service stated herein may result in a determination by the City to modify the level of payment to the Developer on a pro rata basis with level of service. The Developer's records are subject to review by the City to ensure the accuracy and validity of information reported in monthly progress reports.

BUDGET

Contractual Expenses: (Acquisition, Demolition, Rehabilitation or Construction Expenses, Eligible Project Soft Costs deemed necessary and as approved by the Department of Housing and Community Services, Site Improvements, 10% Developer Fee.)

\$65,434.00

TOTAL

\$65,434.00

GRANT AGREEMENT
Between
THE CITY OF WICHITA
HOUSING AND COMMUNITY SERVICES DEPARTMENT
A
PARTICIPATING JURISDICTION
And
Mennonite Housing Rehabilitation Services, Inc.,
A Community Housing Development Organization

HOME Investment Partnerships
Program

2008 CHDO Set-Aside Funding

Housing and Community Services Department
City of Wichita
332 N. Riverview
Wichita, Kansas 67203
Phone (316) 462-3700
Fax (316) 462-3719

No. _____

AGREEMENT

THIS CONTRACT, dated to be effective July 22, 2008, by and between the City of Wichita, Kansas (hereinafter referred to as the City) and Mennonite Housing Rehabilitation Services, Inc. (MHRS, a Community Housing Development Organization, hereinafter referred to as the "Developer").

WITNESSETH THAT:

WHEREAS, the City is entitled to receive a HOME Investment Partnerships Program Grant (hereinafter referred to as HOME), from the U.S. Department of Housing and Urban Development (hereinafter referred to as the "Department").

WHEREAS, the Developer is desirous of participating in activities eligible under HOME, and further agrees that the beneficiaries of its activities under the program and this agreement are, or will be, individuals or families who meet the income eligibility guidelines of Title 24 CFR Part 92.216/217 as applicable; and

WHEREAS, the purpose of the assistance to be provided under this agreement is specifically authorized by Title 24 CFR Section 92.300 (CHDO Funding); and

WHEREAS, the City deems the activities to be provided by the Developer as consistent with, and supportive of the HOME Investment Partnership Program, and that the Developer requires the financial assistance of the City to initiate its activities; and

WHEREAS, the cooperation of the City and the Developer is essential for the successful implementation of an Affordable Housing Program;

WHEREAS, the Developer shall be the responsible authority without recourse to the City regarding the settlement and satisfaction of all contractual and administrative issues arising out of this agreement;

NOW, THEREFORE, the contracting parties do mutually agree as follows:

SECTION 1. SCOPE OF SERVICES. The Developer must follow the Performance Criteria and Program Description as outlined in Exhibit B. Any programmatic change substantially altering the contract's original intent or financial change in contract amount or line items in the approved budget that is greater than \$10,000 shall require a written contract

amendment. The amendment shall be approved by the City Council and shall also be approved and signed by all parties to the original contract.

SECTION 2. TIME OF PERFORMANCE. The services of the Developer are to begin as soon as possible, on the date of this contract, and shall be undertaken and completed in such sequence as to assure their expeditious completion in light of the purposes of this contract. The construction phase of this contract shall be complete by December 31, 2010, with all expenses incurred on or before that date. This contract shall otherwise remain in force through the period of affordability, which will end on a date up to 15 years following the date of completion of the final unit, as defined in 24 CFR 92.2, depending on the amount of HOME funds invested in each unit of construction. Deed restrictions filed in connection with each unit will specify the applicable affordability period for the unit.

SECTION 3. RECORDS, REPORTS AND INSPECTION.

A. Establishment and Maintenance of Records. The Developer shall establish and maintain records as prescribed by the Department, and/or the City, with respect to all matters covered by this contract. Except as otherwise authorized by the Department and/or the City, the Developer shall (Per 24 CFR 92.508) **retain such records for a period of five years following the date final payment is received under this contract.**

B. Documentation of Costs. All costs shall be supported by properly executed payrolls, time records, invoices, contracts or vouchers, or other official documentation evidencing in proper detail the nature and propriety of the charges. All checks, payrolls, invoices, contracts, vouchers, orders or other accounting documents pertaining in whole or in part to this contract shall be clearly identified and readily accessible.

C. Reports and information. The Developer, at such times and in such forms as the City or its designated and authorized representative(s) may require, shall furnish to the City or its designated and authorized representative(s) such statements, records, reports, data and information as the City may request pertaining to matters covered by this contract.

D. Audits and Inspections. The Developer shall at any time and as often as the Housing and Community Services Department, or the City or the Comptroller General, or the Department of Housing and Urban Development, (HUD) or the HUD Inspector General of the United States may deem necessary, make available all its records and data for the purpose of making audits, reviews, examinations, excerpts and transcriptions.

SECTION 4. CONFLICT OF INTEREST. No owner, Developer or sponsor of a project assisted with HOME funds (or officer, employee, agent, elected or appointed official or consultant of the owner, Developer or sponsor) whether private, for profit or non-profit (including a Community Housing Development Organization (CHDO) when acting as an owner, Developer or sponsor) may occupy a HOME-assisted affordable unit in a project. This provision does not apply to an individual who receives HOME funds to acquire or rehabilitate his or her principal residence or to an employee

or agent of the owner or Developer of a rental housing project who occupies a housing unit as the project manager or maintenance worker. (24 CFR 92.356 (f)(1)).

EXCEPTIONS: An exception may be granted in accordance and in compliance with 24 CFR 92.356 (f)(2)(I) through (V), and with the City's prior approval.

SECTION 5. DISCRIMINATION.

A. Discrimination Prohibited. No recipient or proposed recipient of any funds, services or other assistance under the provisions of this contract or any program related to this contract, shall be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity funded in whole or in part with the funds made available through this contract on the grounds of race, color, national origin, ancestry, religion, disability, sex or age. (Reference Title VI of the Civil Rights Act of 1964 (Pub. L. 88-352)). For purposes of this section, "program or activity" is defined as any function conducted by an identifiable administrative unit of the Developer receiving funds pursuant to this contract.

B. The Developer further agrees to implement and comply with the "Revised Non-Discrimination and Equal Employment Opportunity Statement for contracts or agreements" as provided in Exhibit A attached hereto.

C. The Developer will not discriminate against any employee or applicant for employment because of race, color, national origin, sex, or religion, in accordance with Executive Order 11246 – Equal Employment Opportunity, as amended and its implementing regulations at 41 CFR Part 60. If the Developer has fifteen or more employees, the Developer is prohibited from discriminating against any employee or applicant with a disability, in accordance with Title I of the Americans with Disabilities Act of 1990 (ADA). Nondiscrimination notices should be included in all job postings and posted in a visible place in the Developer's office.

SECTION 6. EMPLOYMENT OPPORTUNITIES FOR BUSINESSES AND LOWER INCOME PERSONS IN CONNECTION WITH ASSISTED PROJECTS.

A. GENERAL. Section 3 of the Housing and Urban Development Act of 1968, 12 U.S.C. 1701 u., and Sec. 7 (d), Department of HUD Act, 42 U.S.C. 3535 (d) is applicable to all projects assisted by any Department program in which loans, grants, subsidies or other financial assistance, including HOME Investment Partnerships Program under the Act are provided in aid of housing, urban planning, development, redevelopment or renewal, public or community facilities, and new community developments.

B. Assurance of Compliance.

1. The work to be performed under this contract is subject to the requirements of section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u

(Section 3). The purpose of Section 3 is to ensure that employment and other economic opportunities generated by HUD assistance or HUD-assisted projects covered by section 3, shall, to the greatest extent feasible, be directed to low- and very low-income persons, particularly persons who are recipients of HUD assistance for housing.

2. The parties to this contract will comply with the HUD's regulations in 24 CFR part 135, which implement section 3. As evidenced by their execution of this contract, the parties to this contract certify that they are under no contractual or other impediment that would prevent them from complying with the part 135 regulations.

3. The Developer agrees to send to each labor organization or representative of workers with which the owner has a collective bargaining agreement or other understanding, if any, a notice advising the labor organization or workers' representative of the contractor's commitments under this section 3 clause, and will post copies of the notice in conspicuous places at the work site where both employees and applicants for training and employment positions can see the notice. The notice shall describe the section 3 preference, shall set forth minimum number and job titles subject to hire, availability of apprenticeship and training positions, the qualifications for each; and the name and location of the person(s) taking applications for each of the positions; and the anticipated date the work shall begin.

4. The Developer agrees to include this section 3 clause in every subcontract subject to compliance with regulations in 24 CFR part 135, and agrees to take appropriate action, as provided in an applicable provision of the subcontract or in this section 3 clause, upon finding that the subcontractor is in violation of the regulations in 24 CFR part 135. The contractor will not subcontract with any subcontractor where the contractor has notice or knowledge that the subcontractor has been found in violation of the regulations in 24 CFR part 135.

5. The Developer will certify that any vacant employment positions, including training positions, that are filled (1) after the contractor is selected, but before the contract is executed, and (2) with persons other than those to whom the regulations of 24 CFR part 135 require employment opportunities to be directed, were not filled to circumvent the contractor's obligations under 24 CFR part 135.

6. Noncompliance with HUD's regulations in 24 CFR part 135 may result in sanctions, termination of this contract for default, and debarment or suspension from future HUD assisted contracts.

7. With respect to work performed in connection with section 3 covered Indian housing assistance, section 7(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450e) also applies to the work to be performed under this contract. Section 7(b) requires that to the greatest extent feasible (i) preference and opportunities for training and employment shall be given to Indians, and (ii) preference in the award of contracts and subcontracts shall be given to Indian organizations and Indian-owned Economic Enterprises. Parties to this contract that are subject

to the provisions of section 3 and section 7(b) agree to comply with section 3 to the maximum extent feasible, but not in derogation of compliance with section 7(b).

8. Every contract or agreement entered into by the Developer which involves funds provided under this contract will have incorporated therein subsection B of Section 6 of this contract.

9. In the event the Developer sells, leases, transfers or otherwise conveys land upon which work in connection with this project is to be performed, the City must be notified in writing, thirty (30) days prior to such action. Further, prior to sale or lease of property purchases, funded under this agreement, the Developer shall include in each contract or subcontract for work on such land, a clause requiring the purchaser, lessee or redeveloper to assume the same obligations as the Developer for work under subsection B of Section 6 of this contract. Each such purchaser, lessee or redeveloper shall be relieved of such obligations upon satisfactory completion of all work to be performed under the terms of the redevelopment contract.

SECTION 7. FEDERAL LABOR STANDARDS PROVISIONS. Except with respect to the rehabilitation or construction of residential property containing less than twelve units, the Developer and all contractors and subcontractors engaged under contracts in excess of \$2,000 for the construction, prosecution, completion or repair of any building or work financed in whole or in part with assistance provided under this contract **will comply with the Davis-Bacon Act** (40 U.S.C. 276 a to a-7), as supplemented by Department of Labor (DOL) regulations (29 CFR, Part 5), the Copeland "Anti-Kickback" Act (18 U.S.C. 874, and 40 U.S.C. 276c) as supplemented in DOL regulations (29 CFR, Part 3), sections 103 and 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327-333) as supplemented by DOL regulations (29 CFR, Part 5), and the regulations issued pursuant thereto, and the Fair Labor Standards Act of 1938, As Amended (29 U.S.C. 201, et seq.). **The Developer shall cause or require to be inserted in full, in all such contracts subject to such regulations, provisions consistent with applicable Federal Labor Standards.** No contracts under this section shall be awarded to any contractors or subcontractors debarred for violating Federal Labor Standards Provisions. **This Project does not include construction, prosecution, completion or repair of more than 11 units, and is exempt from Davis-Bacon Act wage requirements.**

The Developer shall take affirmative action to ensure that applicants for employment are employed, contractors or subcontractors receive contracts, and all employees are treated, without regard to their race, color, religion, sex, or national origin. Such action shall include, but not be limited to the following:

employment, recruitment or recruitment advertising,
contracting or subcontracting, promotion, demotion,
transfer, layoff, termination, rates of pay or other
forms of compensation, and selection for training
including apprenticeship.

The Developer shall incorporate the foregoing requirements of this paragraph in all of its contracts, except those exempt by law, and will require all of its contractors to incorporate such requirements in all subcontracts.

SECTION 503 AFFIRMATIVE ACTION FOR QUALIFIED INDIVIDUALS WITH DISABILITIES:

The Developer and any subcontractors will comply with the provisions of Section 503 of the Rehabilitation Act of 1973, if the funding award of their Agreement is \$2,500 or more, including, but not limited, to the following:

- a) The Developer will not discriminate against any employee or applicant for employment because of disability in regard to any position for which the employee or applicant for employment is qualified.
- b) The Developer agrees to take affirmative action to employ, advance in employment and otherwise treat qualified individuals with disabilities without discrimination based upon their disability in all employment practices, including, but not limited to, the following:

Employment, recruitment or recruitment advertising, contracting or subcontracting, promotion, demotion, transfer, layoff, termination, rates of pay or other forms of compensation, and selection for training including apprenticeship.

- c) **The Developer agrees to post in conspicuous places, within administrative office and warehouse facilities available to employees and applicants for employment, notices, which make reference to the Developer's compliance with The Rehabilitation Act.** Such notices shall state the Developer's obligation under the law not to discriminate on the basis of physical or mental disability and to take affirmative action to employ and advance in employment qualified individuals with disabilities.

SECTION 8. COMPLIANCE WITH LOCAL LAWS. All parties shall comply with all applicable laws, ordinances, codes and regulations of the State of Kansas and local governments.

SECTION 9. ASSIGNABILITY. The Developer shall not assign any interest in this contract without prior written consent of the City.

SECTION 10. POLITICAL ACTIVITY PROHIBITED.

A. None of the funds, materials, property or services provided directly or indirectly under this contract, shall be used for partisan political activity.

B. The funds provided under this contract shall not be engaged in any way in contravention of Chapter 15 of Title 5, U.S.C.

SECTION 11. LOBBYING PROHIBITED. None of the funds provided under this contract shall be used for lobbying and/or propaganda purposes designed to support or defeat legislation pending before the Congress of the United States of America or the Legislature of the State of Kansas.

SECTION 12. PAYMENTS.

A. Compensation and Method of Payment. Compensation and method of payment to the Developer, relative to conducting the operations of the project activities and services as herein described, will be carried out as specified in Exhibit B attached hereto, and will be administered under the established accounting and fiscal policies of the City of Wichita.

B. Total Payments. Total Payment to the Developer will not exceed \$123,596.00 as referenced in Exhibit B. Contract payments above \$123,596.00 are contingent upon the sale of completed projects and extended grant authority as a result of program income generated by the project.

C. Restriction on Disbursements. No Entitlement Funds shall be disbursed to the Developer or contractor except pursuant to a written contract, which incorporates by reference the general conditions of this contract.

D. Unearned Payments. Under this contract unearned payments may be suspended or terminated if the entitlement funds to the City of Wichita under the HOME Investment Partnerships Program (24 CFR Part 92) are suspended or terminated.

SECTION 13. TERMINATION CLAUSE. Upon breach of the contract by the Developer, the City, by giving written notification, may terminate this contract immediately. A breach shall include, but not be limited to, failure to comply with any or all items contained within Section 1 through Section 29, Exhibits and/or provisions of any subsequent contractual amendments executed relative to this contract. In the event of a breach of contract, the Developer agrees to re-pay any HOME funds advanced under this agreement.

SECTION 14. AMENDMENTS.

A. To provide necessary flexibility for the most effective execution of this project, whenever both the City and the Developer mutually agree, changes to this contract may be effected by placing them in written form and incorporating them into this contract.

B. Programmatic changes substantially altering the contract's original intent or financial changes in contract amount or line items in the approved budget (Exhibit C) that are greater than \$10,000 shall require a written contract amendment. The amendment must be approved by the City Council and must also be approved and signed by all parties to the original contract.

SECTION 15. POLLUTION STANDARDS. In the event the grand total of Exhibit C is in excess of \$100,000, the Developer agrees to comply with all applicable standards, orders, or regulations issued pursuant to the Clean Air Act of 1970 (42 U.S.C. 185, et seq.) and the Federal Water Pollution Control Act (33 U.S.C.1251, et seq.), As Amended.

SECTION 16. ARCHITECTURAL BARRIERS. Every building or facility (other than a private residential structure) designed, constructed or altered with funds provided pursuant to this contract shall be designed, altered or constructed in accordance with the standards issued under the Architectural Barriers Act of 1968 (42 USC 4151 et. seq.), as amended, and the minimum guidelines and requirements issued by the Architectural and Transportation Compliance Board pursuant to Section 502 (b.) (3.) of the Rehabilitation Act of 1973 (29 USC 792 (b.) (3.) as amended, and Section 504 of the Rehabilitation Act of 1973.

The Section 504 implementing regulations (24 CFR Part 8) apply to this project. Newly constructed or rehabilitated housing for purchase or single-family housing developed with Federal funds must be made accessible upon the request of the prospective buyer if the nature of the prospective occupant's disability so requires. Should a prospective buyer request a modification to make a unit accessible, the owner/developer must work with the buyer to provide specific features that meet the need(s) of the prospective homebuyer/occupant. If the design features that are needed for the buyer are design features that are covered in the Uniform Federal Accessibility Standards (UFAS), those features must comply with the UFAS standard. The Developer shall be permitted to depart from the standard in order to have the buyer/occupant's needs met.

Multi-family dwellings must also meet the design and construction requirements at 24 CFR 100.205, which implement the Fair Housing Act (42 U.S.C. 3601-19), and Section 504 of the Rehabilitation Act of 1973, as applicable.

SECTION 17. ANTI-TRUST LITIGATION. For good cause, and as consideration for executing this contract, the Developer, acting herein by and through its authorized agent, hereby conveys, sells, assigns and transfers to the City of Wichita all right, title and interest in and to all causes of action it may now or hereafter acquire under the anti-trust laws of the United States and the State of Kansas, relating to the particular product, products, or services purchased or acquired by the Developer pursuant to this contract.

SECTION 18. UNIFORM GRANT ADMINISTRATIVE REQUIREMENTS AND COST PRINCIPLES. During the administration of this contract, the Developer shall comply with 24 CFR 84.21, Standards for financial management systems, as follows:

- (a) Developer is required to relate financial data to performance data and develop unit cost information whenever practical.
- (b) Developer's financial management systems shall provide for the following:
 - (1) Accurate, current and complete disclosure of the financial results of each federally-sponsored project or program in accordance with the reporting requirements set forth in §84.52. If a recipient maintains its records on other than an accrual basis, the developer shall not be required to establish an accrual accounting system. The Developer may develop such accrual data for reports on the basis of an analysis of the documentation on hand.

- (2) Records that identify adequately the source and application of funds for federally-sponsored activities. These records shall contain information pertaining to Federal awards, authorizations, obligations, unobligated balances, assets, outlays, income and interest.
 - (3) Effective control over and accountability for all funds, property and other assets. The Developer shall adequately safeguard all such assets and assure they are used solely for authorized purposes.
 - (4) Comparison of outlays with budget amounts for each award. Whenever appropriate, financial information should be related to performance and unit cost data.
 - (5) Written procedures to minimize the time elapsing between the transfer of funds to the developer from the City, and the issuance or redemption of checks, warrants or payments by other means for program purposes by the Developer. To the extent that the provisions of the Cash Management Improvement Act (CMIA) (Pub. L. 101-453) govern, payment methods of State agencies, instrumentalities, and fiscal agents shall be consistent with CMIA Treasury-State Agreements or the CMIA default procedures codified at 31 CFR part 205, "Withdrawal of Cash from the Treasury for Advances under Federal Grant and Other Programs."
 - (6) Written procedures for determining the reasonableness, allocability and allowability of costs in accordance with the provisions of the applicable Federal cost principles and the terms and conditions of the award.
 - (7) Accounting records including cost accounting records that are supported by source documentation.
- (c) Where the City guarantees or insures the repayment of money borrowed by the Developer, The City, at its discretion, may require adequate bonding and insurance if the bonding and insurance requirements of the recipient are not deemed adequate to protect the interest of the City.
 - (d) The City may require adequate fidelity bond coverage where the Developer lacks sufficient coverage to protect the City's interest.
 - (e) Where bonds are required in the situations described above, the bonds shall be obtained from companies holding certificates of authority as acceptable sureties, as prescribed in 31 CFR part 223, "Surety Companies Doing Business with the United States."

SECTION 19. RENEGOTIATION. This contract may be renegotiated in the event alternate sources of funding become available during the term of the contract.

SECTION 20. LEAD-BASED PAINT POISONING PREVENTION. Should HOME funding be utilized for rehabilitation of existing structures, the Developer will comply with the lead-based paint provisions at 24 CFR Part 35 and at 24 CFR 570.608, and Title X of the Housing and Community Development Act of 1992. Compliance will include all activities

required by these regulations. The Developer also agrees to document each client file with regard to these provisions, and action(s) taken if required. A copy of the current HUD Lead-Based Paint Certification will be retained in the file of each client assisted with HOME funds under this contract. The Developer will comply with the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4821 et seq.) and 24 CFR part 35. The project will comply with section 92.355 of the HOME rule. The Developer will also comply with the lead-based paint provisions of section 982.401(j) and the Lead-Based Paint provisions of the Section 8 Housing Quality Standards (HQS), irrespective of the applicable property standard under section 92.251. The Developer will comply with sections 1012 and 1013 of the Residential Lead-Based Paint Hazard Reduction Act of 1992 and the regulations found at 24 CFR part 35.

Section 21. TERMINATION FOR CONVENIENCE. The City may terminate this contract at any time by a notice in writing from the City to the Developer. If the contract is terminated by the City as provided herein, the Developer will be paid an amount which bears the same ratio to the total compensations the services actually performed bear to the total services of the Developer covered by this contract, less payments of compensation previously made: Provided, however, that if less than sixty (60) percent of the services covered by this contract have been performed upon the effective date of such termination, the Developer shall be reimbursed (in addition to the above payment) for that portion of the actual out-of-pocket expense (not otherwise reimbursed under this contract) incurred by the Developer during the contract period which are directly attributable to the uncompleted portion of the services covered by this contract. If this contract is terminated due to the fault of the Developer, Section 13 herein relative to termination shall apply.

SECTION 22. REFUND OF INCOME. All income earned by the project as a result of entitlement funds (program income) shall be accounted for and refunded to the City as it is received, unless otherwise specified in Exhibit B. Earned income shall be defined as fees received, subsidies, sales and any program income.

SECTION 23. REVERSION OF ASSETS. In the event this contract is terminated, due to breach, convenience, or expiration, the Developer agrees to transfer ownership of any real property purchased with HOME funds under this agreement or any prior written agreement, to the City, upon written notification. This clause shall not apply if the project has been completed as contractually agreed, and the applicable affordability period has expired.

SECTION 24. OTHER FEDERAL REGULATIONS. Activities funded with HOME funds must comply with all of the following federal laws, executive orders and regulations pertaining to fair housing and equal opportunity, as follows:

Title VIII of the Civil Rights Act of 1968 (Fair Housing Act, (42 U.S.C. 3601-3620) As Amended, and implementing regulations at 24 CFR 100. The Fair Housing Act prohibits discrimination in the sale, rental and financing of dwellings and in other housing-related transactions, based on race, color, national origin, religion, sex, familial status, and disability.

Title VI of the Civil Rights Act of 1964, As Amended (42 U.S.C. 2000d et seq.). This law prohibits discrimination on the basis of race, color, and national origin in all Federally-assisted programs.

The Age Discrimination Act of 1975, As Amended (42 U.S.C. 6101), and implementing regulations at 24 CFR Part 146. This law prohibits age discrimination based on disability in all programs or activities operated by recipients of Federal financial assistance.

Equal Opportunity in Housing (Executive Order 11063, and Executive Order 12259), and implementing regulations at 24 CFR Part 107. These Executive Orders prohibit discrimination against individuals on the basis of race, color, religion, sex, and national origin in the sale, rental, leasing or other disposition of residential property, or in the use or occupancy of housing assisted with Federal funds.

Title II of the Americans with Disabilities Act (ADA). Title II of ADA prohibits discrimination against persons with disabilities in all programs, activities, and services of a public entity. (42 U.S.C. 12131; 47 U.S.C. 155, 201, 218, and 225)

SECTION 25. AFFORDABILITY. Housing assisted with HOME funds must meet the affordability requirements specified at 92.254 of the HOME Regulation (24 C.F.R. Part 92). HOME funds must be re-paid to the City if the housing does not meet the affordability requirements for the specified time period. The City will file a mortgage on each property upon purchase for redevelopment, and will hold said mortgage until such time as the property is re-sold to an owner-occupant homebuyer receiving a down payment and closing costs assistance loan through the City's HOMEownership 80 Program. The City will hold the long-term deed restriction placed on the property following the sale of the home as described within this paragraph.

SECTION 26. DISBURSEMENT OF HOME FUNDS. The Developer may not request disbursement of HOME funds under this agreement until the funds are needed for payment of eligible costs. Unless otherwise approved by the Housing and Community Services Department, payments to the Developer will be provided on a reimbursement basis, up to two times per month. The amount of each request will be limited to the amount needed. Developer must provide detailed records to substantiate the amount of HOME funds requested under this agreement, and must retain records, such as invoices, to substantiate said amounts.

SECTION 27. PROPERTY AND HOUSING STANDARDS. Housing that is constructed or rehabilitated with HOME funds must meet all applicable codes, rehabilitation standards, ordinances, and zoning ordinances at the time of project completion. Newly constructed housing must meet the current edition of the Model Energy Code published by the Council of American Building Officials. (24 CFR 92.251)

SECTION 28. RELIGIOUS ORGANIZATIONS. Religious organizations may not require a beneficiary to participate in inherently religious activities, such as worship, religious instruction, or proselytizing.

Faith-based organizations may retain independence from Federal, state, and local governments to carry out their missions, including the definition, practice, and expression of its religious beliefs, provided that HOME funds do not financially support inherently religious activities. The organization's Board of Directors may not be selected based on religious practice. Religious references in the organization's mission statement and other governing documents are acceptable. 24 CFR 92.257(c).

Religious organizations must serve all eligible program beneficiaries without regard to religion, and may not restrict HOME-assisted housing to people of a particular religion or religious denomination. The eligibility of an applicant cannot be reliant on the applicant's participation in religious activities or programs supported by the organization, even if funded with other non-Federal sources.

SECTION 29. APPENDICES. All exhibits referenced in this contract, all amendments mutually agreed upon, and modifications made by both parties are hereby incorporated as though fully set forth herein.

Exhibit A: Revised Non-Discrimination & Equal Employment
Opportunity Statement

Exhibit B: Performance Criteria and Program Description

Exhibit C: Budget

Mennonite Housing Rehabilitation Services, Inc.

Signature

Title of MHRS Officer

Date

**CITY OF WICHITA, KANSAS
at the Direction of the City Council**

Carl Brewer, Mayor

Date

ATTEST:

Karen Sublett, City Clerk

Date

Approved as to Form:

Gary E. Rebenstorf, City Attorney
and Director of Law of the
City of Wichita

Date

**REVISED NON-DISCRIMINATION AND
EQUAL EMPLOYMENT OPPORTUNITY/AFFIRMATIVE ACTION PROGRAM
REQUIREMENTS STATEMENT FOR CONTRACTS OR AGREEMENTS**

During the term of this contract, the contractor or subcontractor, vendor or supplier of the City, by whatever term identified herein, shall comply with the following Non-Discrimination--Equal Employment Opportunity/Affirmative Action Program Requirements:

- A. During the performance of this contract, the contractor, subcontractor, vendor or supplier of the City, or any of its agencies, shall comply with all the provisions of the Civil Rights Act of 1964, as amended: The Equal Employment Opportunity Act of 1972; Presidential Executive Orders 11246, 11375, 11131; Part 60 of Title 41 of the Code of Federal Regulations; the Age Discrimination in Employment Act of 1967; the Americans with Disabilities Act of 1990 and laws, regulations or amendments as may be promulgated thereunder.
- B. Requirements of the State of Kansas:
 - 1. The contractor shall observe the provisions of the Kansas Act against Discrimination (Kansas Statutes Annotated 44-1001, et seq.) and shall not discriminate against any person in the performance of work under the present contract because of race, religion, color, sex, disability, and age except where age is a bona fide occupational qualification, national origin or ancestry;
 - 2. In all solicitations or advertisements for employees, the contractor shall include the phrase, "Equal Opportunity Employer", or a similar phrase to be approved by the "Kansas Human Rights Commission";
 - 3. If the contractor fails to comply with the manner in which the contractor reports to the "Kansas Human Rights Commission" in accordance with the provisions of K.S.A. 1976 Supp. 44-1031, as amended, the contractor shall be deemed to have breached this contract and it may be canceled, terminated or suspended in whole or in part by the contracting agency;
 - 4. If the contractor is found guilty of a violation of the Kansas Act against Discrimination under a decision or order of the "Kansas Human Rights Commission" which has become final, the contractor shall be deemed to have breached the present contract, and it may be canceled, terminated or suspended in whole or in part by the contracting agency;

5. The contractor shall include the provisions of Paragraphs 1 through 4 inclusive, of this Subsection B, in every subcontract or purchase so that such provisions will be binding upon such subcontractor or vendor.
- C. Requirements of the City of Wichita, Kansas, relating to Non-Discrimination -- Equal Employment Opportunity/Affirmative Action Program Requirements:
1. The vendor, supplier, contractor or subcontractor shall practice Non-Discrimination -- Equal Employment Opportunity in all employment relations, including but not limited to employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. The vendor, supplier, contractor or subcontractor shall submit an Equal Employment Opportunity or Affirmative Action Program, when required, to the Department of Finance of the City of Wichita, Kansas, in accordance with the guidelines established for review and evaluation;
 2. The vendor, supplier, contractor or subcontractor will, in all solicitations or advertisements for employees placed by or on behalf of the vendor, supplier, contractor or subcontractor, state that all qualified applicants will receive consideration for employment without regard to race, religion, color, sex, "disability, and age except where age is a bona fide occupational qualification", national origin or ancestry. In all solicitations or advertisements for employees the vendor, supplier, contractor or subcontractor shall include the phrase, "Equal Opportunity Employer", or a similar phrase;
 3. The vendor, supplier, contractor or subcontractor will furnish all information and reports required by the Department of Finance of said City for the purpose of investigation to ascertain compliance with Non-Discrimination -- Equal Employment Opportunity Requirements. If the vendor, supplier, contractor, or subcontractor fails to comply with the manner in which he/she or it reports to the City in accordance with the provisions hereof, the vendor, supplier, contractor or subcontractor shall be deemed to have breached the present contract, purchase order or agreement and it may be canceled, terminated or suspended in whole or in part by the City or its agency; and further Civil Rights complaints, or investigations may be referred to the State;
 4. The vendor, supplier, contractor or subcontractor shall include the provisions of Subsections 1 through 3 inclusive, of this present section in every subcontract, subpurchase order or subagreement so that such provisions will be binding upon each subcontractor, subvendor or subsupplier.
- D. Exempted from these requirements are:

1. Those contractors, subcontractors, vendors or suppliers who have less than four (4) employees, whose contracts, purchase orders or agreements cumulatively total less than five thousand dollars (\$5,000) during the fiscal year of said City are exempt from any further Equal Employment Opportunity or Affirmative Action Program submittal.
2. Those vendors, suppliers, contractors or subcontractors who have already complied with the provisions set forth in this section by reason of holding a contract with the Federal government or contract involving Federal funds; provided that such contractor, subcontractor, vendor or supplier provides written notification of a compliance review and determination of an acceptable compliance posture within a preceding forty-five (45) day period from the Federal agency involved.

Exhibit B

PERFORMANCE CRITERIA AND CONTRACT OBJECTIVES

It is mutually agreed and understood by the City of Wichita and Mennonite Housing Rehabilitation Services, Inc., hereinafter referred to as the "City" and "Developer" (or MHRS) respectively, that execution of this contract obligates the Developer to the following performance requirements.

The Developer, a Community Housing Development Organization (CHDO), is receiving this grant funding as CHDO Set-Aside Funding, under HOME regulations, as specified in 24 CFR 92.300.

In return for the \$123,596 remuneration stated herein, the Developer agrees to undertake an affordable housing program, which will result in the acquisition of existing vacant homes or vacant lots located within the boundaries of any of the City's six Local Investment Areas. Existing structures acquired for redevelopment must be vacant and unoccupied for a period of at least 90 days, and must be demolished with a new single-family home to be constructed on each site. Vacant lots must also be re-developed with new single family home on each site. A minimum of five new single-family homes are to be constructed/developed and sold to owner-occupant homebuyers.

Housing constructed under this agreement must be re-sold to HOME-compliant owner-occupant buyers, with down payment and closing costs assistance provided through the City's HOMEownership 80 program. The City will hold the deed restrictions for this HOME assistance. (24 CFR 92.254, Qualification as Affordable Housing, Homeownership.) The Developer represents and agrees that its purchase of the properties and its other undertakings pursuant to this Agreement are, and will be, for the purpose of redevelopment of such property and not for speculation.

The Developer represents and agrees that it will remain the owner of the properties until it reaches agreement with a prospective buyer(s) of the properties and, by mutual agreement, the Developer will transfer title to the prospective buyer. All HOME assistance will be repaid to the City; except in cases where there are no net proceeds or where the net proceeds are insufficient to repay the full amount of assistance. Net proceeds will be considered funds available following adjustment for approved additional costs incurred by the Developer to prepare the property for ownership that were not collectable through sale of property. Funds that are not recoverable will be considered a development grant subsidy to the Developer.

I. Project Requirements

- A. Project must conform to regulations under 24 CFR Part 92. The HOME Investment Partnerships Program regulation. Specific references can be found as follows:

24 CFR 92.250, Maximum Per Unit Subsidy: The amount of HOME funds invested per unit may not exceed the per-unit dollar limits established under section 221 (d)(3)(ii) of the National Housing Act (12 U.S.C. 17151(d)(3)(ii)) for elevator-type projects that apply to the City of Wichita.

24 CFR 92.251, Property Standards: Housing constructed with HOME funds must meet all applicable local codes, ordinances and zoning ordinances at the time of project completion, and must comply with the current version of the CABO Model Energy Code. Housing must be inspected upon completion and throughout construction to verify compliance.

24 CFR 92.254(a)(2)(iii), Maximum Property Value: Housing created or acquired and rehabilitated with HOME funds must be modest in nature and affordable to a low-income buyer. The maximum purchase price or value cannot exceed 95 percent of median purchase price for the area, as determined by HUD.

24 CFR 92.352

- B. Prior to executing any contracts for sale of the assisted properties the Developer must confirm that the City has certified that the applicant household meets the HOME Program income requirements and that the household's eligibility has been verified through a review of source documentation in accordance with 24 CFR 92.203.

II. Program Content

- A. The use of HOME funds provided under this contract will be limited to the subsidy of actual costs involved in the acquisition of property, construction of homes, purchase and re-habilitation of existing homes, demolition, and the developer fees earned in connection with completion of each unit.

Funding under this agreement will be provided in the form of 0% loans to complete projects as approved on a case-by-case basis by the Department of Housing and Community Services.

Developer shall obtain construction loans in order to leverage HOME funds construction investment, in an amount equivalent to 50% or more of the appraised value of the home to be constructed.

III. Administration

The MHRS President/C.E.O. will supervise operations and administration on a day-to-day basis. The MHRS Board of Directors is ultimately responsible for program administration.

- A. Funding: It is mutually agreed by and between the City and the Developer that the total HOME funds available to MHRS for this project will be \$123,596.00, in the form of a forgivable development subsidy loan, to be used as set forth in the sections entitled Budget and Method of Payment.
- B. Budget: The City shall pay the Developer as hereinafter set out; the maximum of \$123,596.00 for the program described in this contract. A developer fee in the amount of 10% of the total development cost will be paid to the Developer in connection with each completed project. The developer fee will be pre-determined at the onset of the construction of each home, and will be paid upon the closing of the sale of each individual home. Proceeds from the sale of homes, less the aforementioned developer fee, and applicable costs will be returned to the City, in the form of a payoff of development subsidy loans provided under this agreement. Contract payments over and above the original budgeted amount are contingent upon the sale of completed homes/projects, and extended grant authority as a result of repayments generated by the sale of completed homes. Extended grant authority may be utilized to develop additional housing units under the terms of this agreement. Funding under this agreement shall be originally budgeted as follows:

Contractual Expenses: (Acquisition, Demolition, Construction Expenses, Eligible Project Soft Costs deemed necessary and as approved by the Department of Housing and Community Services, Site Improvements, 10% Developer Fee.)

\$123,596.00

TOTAL \$123,596.00

- C. Method of Payment: The Developer agrees that payments under this contract shall be made according to established budgeting, purchasing and accounting procedures of the City of Wichita and HOME.
1. The City and MHRS also agree that the categories of expenditures and amounts are estimates and may vary during the course of the contract. Changes greater than \$10,000, other than those within the scope of this agreement must be approved by the City Council.
 2. MHRS will ensure all costs are eligible according to the approved budget. The original documentation supporting any expenditure made under this agreement will be retained in the Developer's files for five (5) years after the final audit of expenditures made under this contract and throughout the applicable period of affordability.

3. Construction costs to be reimbursed based on direct costs and percentage completion, as determined by the City, of each project. Fully documented draw requests will be processed on Friday of the week submitted. Payment will be available for receipt by the Developer within three weeks of the Friday on which the draw request was received.

D. Records and Reports

1. Records shall be maintained documenting performance to be indicated in an annual report. Records are subject to review by the City.
2. **The Developer will provide, for the year ending June 30 of each year, beginning June 30, 2009, an annual report of the HOME funded portion of the program.** It shall indicate yearly expenditures, cumulative expenditures since program inception and balance remaining. Yearly expenditures will be identified by category of expenditure (acquisition, rehabilitation, developers fee, accounting & legal, architects). The report shall also indicate, by race and sex, the number of households/persons served during the year with HOME funds. The report shall also provide the total number of contracts awarded and the number of contracts awarded to minority-and women-owned businesses. The City reserves the right to change the due dates and contents of reports to be submitted under this clause.

The financial reports will be provided until such time as there are no expenditures. The owner shall continue to provide a report that indicates, by race and sex, the number of households/persons served during the year with HOME funds, when applicable. The report shall also provide the total number of contracts awarded and the number of contracts awarded to minority- and women-owned businesses. Said report shall be due to the City of Wichita **July 10** of each applicable year.

3. Additionally, a narrative or other description of progress may be provided.
4. Records shall be maintained valuing in-kind services, and donated goods and services, to be reported in the same manner as other annual reports.

IV. Conditions Precedent to Construction

The following items (matters) must be provided (completed) prior to beginning construction on the project and related improvements:

- A. The Developer agrees to execute a document placing deed restrictions and covenants against properties on which projects are constructed, in order to comply with 24 CFR 92.254. Said restrictions and covenants will be in force until such time as a property/home are re-sold, as specified in this agreement.
- B. Provide a detailed overall project/unit budget, including but not limited to a Sources and Uses of Funds Statement.
- C. Provide Certificates regarding Debarment and Suspension, and/or lists of contractors/subcontractors to be utilized and other file documentation as requested by the City in order to comply with HOME regulations.
- D. Submit final construction plans, specifications and a budget for each home to be constructed for approval by the Housing and Community Services Department, City of Wichita. (Not in connection with plan review or obtaining applicable permits.) Individual home construction may not begin until a Notice to Proceed has been issued by the Housing and Community Services Department.
- E. Provide evidence that ownership interest in the property vests in MHRS, Inc.. (Copy of Deed, and/or Title Insurance Binder/Policy)
- F. The Developer will notify the City of any properties it contracts to purchase, or intends to develop with funding provided under this agreement, in order for the City to complete the environmental reviews required under **24 CFR 92.352**, prior to closing of the purchase. Developer agrees to comply with all requirements imposed on a particular project/site as a result of the environmental review process.
- G. The Developer will obtain any and all permits required by the City prior to undertaking construction.
- H. The Developer will obtain construction loans from private sector financial institutions, in an amount equivalent to a minimum of 50% of the appraised value of the home to be developed/constructed on each project site.
- I. The Developer will obtain the approval of the City of Wichita Housing and Community Services Department for any changes to the previously submitted project plan. This includes changes in costs, as well as changes in the project scope or plans.
- J. The Developer shall obtain Builder's Risk Insurance for the home to be constructed, in an amount sufficient to repay the amount of the face amount of the first mortgage construction loan, plus anticipated interest expense, and the total anticipated HOME funds investment in the project. The Developer is also responsible for workers compensation insurance and general liability insurance.

- K. The Developer shall not undertake construction, reconstruction or rehabilitation on a site contaminated by hazardous materials without undertaking a Phase I environmental assessment of the site in a form, scope and substance satisfactory to the City. The Developer shall consult with Wichita/Sedgwick County Department of Environmental Health regarding the necessity and scope of the environmental assessment. The Developer shall remediate or cause to be remediated all contaminants and hazardous materials as required or recommended by the Wichita/Sedgwick County Department of Environmental Health. Such remediation shall be accomplished in accordance with the requirements of applicable environmental laws of the Kansas Department of Health and Environment, the federal Environmental Protection Agency and the U.S. Department of Housing and Urban Development. During the process of redevelopment and/or construction, should the Developer discover any soil staining or odors emanating from soil at the project site, the Developer must cease work immediately, and notify the City.

V. Other Program Requirements

- A. The Developer agrees to adopt affirmative marketing procedures and requirements and prepare a written Affirmative Marketing Plan for this project. The Affirmative Marketing Plan must be available for public inspection in the Developer's office. The plan must contain specific steps and actions that the Developer will take to provide information and otherwise attract eligible persons for all racial, ethnic, and gender groups in the housing market area to the available housing. Specific activities that must be included in the Developer's Affirmative Marketing Plan include:
1. Display the Equal Housing Opportunity logo, slogan or statement in all advertising material related to this project.
 2. Display the HUD Equal Housing Opportunity logo, slogan or statement at the construction site, from the start of construction, and properly maintained throughout the construction and rental period.
 3. No later than 90 days prior to engaging in marketing activities, the Developer should notify the City of Wichita Housing and Community Services Department, either in writing or by telephone of the dates on which the Developer plans to: (1) begin initial marketing activities; (2) accept purchase contracts; and (3) start initial sales.
 4. The Developer must begin marketing activities 90 days prior to the anticipated date of availability for occupancy of the first unit of the project.

5. The Developer must market/advertise the housing opportunity utilizing publications, such as community newspapers, in an effort to attract income-qualified homebuyers.
- B. The City and agents designated by the City shall, at all reasonable times during the development of the project and construction or rehabilitation, have the right of entry and free access to the project and all parts thereof, and the right to inspect all work done, labor performed and materials furnished in or about the project and all records relative to all payments made in connection with the project.

The Developer shall have the responsibility of maintaining the property until such time as the development project is complete and the newly constructed home has been sold to a HOME-eligible buyer.

- C. Site Improvements: The City will require a Developer to undertake site improvements upon completion of construction. Site improvements include, but are not limited to, sodding of front yards, and 4' chain-link fencing. Said site improvements must be undertaken when seasonally appropriate. The City reserves the right to make an exception on a case-by-case basis.
- D. Warranty: The Developer must provide a one-year construction warranty for all homes constructed or rehabilitated under this contract.
- E. Developer is required to obtain insurance coverage for all perils, including vandalism, in an amount equivalent to the amount of the first mortgage construction loan balance plus interest, and the total HOME funds investment, in the event that a home constructed under this agreement has not sold, as of the day of completion, and the Builder's Risk Insurance Policy will no longer provide adequate coverage.
- F. Developer is responsible for retaining all records in connection with projects undertaken with HOME funding provided under this contract, including but not limited to, real estate purchase contracts, invoices, property development documentation, infrastructure development, and other records as further specified in this agreement.
- G. Developer shall apply for City incentives, as available, for projects undertaken with funding provided under this agreement, including property tax rebates and permit fee waivers.

VI. Program Evaluation

The City shall evaluate this project based on the objectives stated in this Exhibit. Failure by the Developer to provide the level of service stated herein may result in a determination by the City to modify the level of payment to the Developer on a pro rata basis with level

of service. The Developer's records are subject to review by the City to ensure the accuracy and validity of information reported in monthly progress reports.

BUDGET

Contractual Expenses: (Acquisition, Demolition, Rehabilitation or Construction Expenses, Eligible Project Soft Costs deemed necessary and as approved by the Department of Housing and Community Services, Site Improvements, 10% Developer Fee.)

\$123,596.00

TOTAL

\$123,596.00

GRANT AGREEMENT
Between
THE CITY OF WICHITA
HOUSING AND COMMUNITY SERVICES DEPARTMENT
A
PARTICIPATING JURISDICTION
And
Power CDC, Inc.,
A Community Housing Development Organization

HOME Investment Partnerships
Program

2008 CHDO Set-Aside Funding

Housing and Community Services Department
City of Wichita
332 N. Riverview
Wichita, Kansas 67203
Phone (316) 462-3700
Fax (316) 462-3719

No. _____

AGREEMENT

THIS CONTRACT, dated to be effective July 22, 2008, by and between the City of Wichita, Kansas (hereinafter referred to as the City) and Power CDC, Inc. (Power CDC, a Community Housing Development Organization, hereinafter referred to as the "Developer").

WITNESSETH THAT:

WHEREAS, the City is entitled to receive a HOME Investment Partnerships Program Grant (hereinafter referred to as HOME), from the U.S. Department of Housing and Urban Development (hereinafter referred to as the "Department").

WHEREAS, the Developer is desirous of participating in activities eligible under HOME, and further agrees that the beneficiaries of its activities under the program and this agreement are, or will be, individuals or families who meet the income eligibility guidelines of Title 24 CFR Part 92.216/217 as applicable; and

WHEREAS, the purpose of the assistance to be provided under this agreement is specifically authorized by Title 24 CFR Section 92.300 (CHDO Funding); and

WHEREAS, the City deems the activities to be provided by the Developer as consistent with, and supportive of the HOME Investment Partnership Program, and that the Developer requires the financial assistance of the City to initiate its activities; and

WHEREAS, the cooperation of the City and the Developer is essential for the successful implementation of an Affordable Housing Program;

WHEREAS, the Developer shall be the responsible authority without recourse to the City regarding the settlement and satisfaction of all contractual and administrative issues arising out of this agreement;

NOW, THEREFORE, the contracting parties do mutually agree as follows:

SECTION 1. SCOPE OF SERVICES. The Developer must follow the Performance Criteria and Program Description as outlined in Exhibit B. Any programmatic change substantially altering the contract's original intent or financial change in contract amount or line items in the approved budget that is greater than \$10,000 shall require a written contract amendment. The amendment shall be approved by the City Council and shall also be approved and signed by all parties to the original contract.

SECTION 2. TIME OF PERFORMANCE. The services of the Developer are to begin as soon as possible, on the date of this contract, and shall be undertaken and completed in such sequence as to assure their expeditious completion in light of the purposes of this contract. The construction phase of this contract shall be complete by December 31, 2010, with all expenses incurred on or before that date. This contract shall otherwise remain in force through the period of affordability, which will end on a date up to 15 years following the date of completion of the final unit, as defined in 24 CFR 92.2, depending on the amount of HOME funds invested in each unit of construction. Deed restrictions filed in connection with each unit will specify the applicable affordability period for the unit.

SECTION 3. RECORDS, REPORTS AND INSPECTION.

A. Establishment and Maintenance of Records. The Developer shall establish and maintain records as prescribed by the Department, and/or the City, with respect to all matters covered by this contract. Except as otherwise authorized by the Department and/or the City, the Developer shall (Per 24 CFR 92.508) **retain such records for a period of five years following the date final payment is received under this contract.**

B. Documentation of Costs. All costs shall be supported by properly executed payrolls, time records, invoices, contracts or vouchers, or other official documentation evidencing in proper detail the nature and propriety of the charges. All checks, payrolls, invoices, contracts, vouchers, orders or other accounting documents pertaining in whole or in part to this contract shall be clearly identified and readily accessible.

C. Reports and information. The Developer, at such times and in such forms as the City or its designated and authorized representative(s) may require, shall furnish to the City or its designated and authorized representative(s) such statements, records, reports, data and information as the City may request pertaining to matters covered by this contract.

D. Audits and Inspections. The Developer shall at any time and as often as the Housing and Community Services Department, or the City or the Comptroller General, or the Department of Housing and Urban Development, (HUD) or the HUD Inspector General of the United States may deem necessary, make available all its records and data for the purpose of making audits, reviews, examinations, excerpts and transcriptions.

SECTION 4. CONFLICT OF INTEREST. No owner, Developer or sponsor of a project assisted with HOME funds (or officer, employee, agent, elected or appointed official or consultant of the owner, Developer or sponsor) whether private, for profit or non-profit (including a Community Housing Development Organization (CHDO) when acting as an owner, Developer or sponsor) may occupy a HOME-assisted affordable unit in a project. This provision does not apply to an individual who receives HOME funds to acquire or rehabilitate his or her principal residence or to an employee or agent of the owner or Developer of a rental housing project who occupies a housing unit as the project manager or maintenance worker. (24 CFR 92.356 (f)(1)).

EXCEPTIONS: An exception may be granted in accordance and in compliance with 24 CFR 92.356 (f)(2)(I) through (V), and with the City's prior approval.

SECTION 5. DISCRIMINATION.

A. Discrimination Prohibited. No recipient or proposed recipient of any funds, services or other assistance under the provisions of this contract or any program related to this contract, shall be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity funded in whole or in part with the funds made available through this contract on the grounds of race, color, national origin, ancestry, religion, disability, sex or age. (Reference Title VI of the Civil Rights Act of 1964 (Pub. L. 88-352)). For purposes of this section, "program or activity" is defined as any function conducted by an identifiable administrative unit of the Developer receiving funds pursuant to this contract.

B. The Developer further agrees to implement and comply with the "Revised Non-Discrimination and Equal Employment Opportunity Statement for contracts or agreements" as provided in Exhibit A attached hereto.

C. The Developer will not discriminate against any employee or applicant for employment because of race, color, national origin, sex, or religion, in accordance with Executive Order 11246 – Equal Employment Opportunity, as amended and its implementing regulations at 41 CFR Part 60. If the Developer has fifteen or more employees, the Developer is prohibited from discriminating against any employee or applicant with a disability, in accordance with Title I of the Americans with Disabilities Act of 1990 (ADA). Nondiscrimination notices should be included in all job postings and posted in a visible place in the Developer's office.

SECTION 6. EMPLOYMENT OPPORTUNITIES FOR BUSINESSES AND LOWER INCOME PERSONS IN CONNECTION WITH ASSISTED PROJECTS.

A. GENERAL. Section 3 of the Housing and Urban Development Act of 1968, 12 U.S.C. 1701 u., and Sec. 7 (d), Department of HUD Act, 42 U.S.C. 3535 (d) is applicable to all projects assisted by any Department program in which loans, grants, subsidies or other financial assistance, including HOME Investment Partnerships Program under the Act are provided in aid of housing, urban planning, development, redevelopment or renewal, public or community facilities, and new community developments.

B. Assurance of Compliance.

1. The work to be performed under this contract is subject to the requirements of section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u (Section 3). The purpose of Section 3 is to ensure that employment and other economic opportunities generated by HUD assistance or HUD-assisted projects covered by section 3, shall, to

the greatest extent feasible, be directed to low- and very low-income persons, particularly persons who are recipients of HUD assistance for housing.

2. The parties to this contract will comply with the HUD's regulations in 24 CFR part 135, which implement section 3. As evidenced by their execution of this contract, the parties to this contract certify that they are under no contractual or other impediment that would prevent them from complying with the part 135 regulations.

3. The Developer agrees to send to each labor organization or representative of workers with which the owner has a collective bargaining agreement or other understanding, if any, a notice advising the labor organization or workers' representative of the contractor's commitments under this section 3 clause, and will post copies of the notice in conspicuous places at the work site where both employees and applicants for training and employment positions can see the notice. The notice shall describe the section 3 preference, shall set forth minimum number and job titles subject to hire, availability of apprenticeship and training positions, the qualifications for each; and the name and location of the person(s) taking applications for each of the positions; and the anticipated date the work shall begin.

4. The Developer agrees to include this section 3 clause in every subcontract subject to compliance with regulations in 24 CFR part 135, and agrees to take appropriate action, as provided in an applicable provision of the subcontract or in this section 3 clause, upon finding that the subcontractor is in violation of the regulations in 24 CFR part 135. The contractor will not subcontract with any subcontractor where the contractor has notice or knowledge that the subcontractor has been found in violation of the regulations in 24 CFR part 135.

5. The Developer will certify that any vacant employment positions, including training positions, that are filled (1) after the contractor is selected, but before the contract is executed, and (2) with persons other than those to whom the regulations of 24 CFR part 135 require employment opportunities to be directed, were not filled to circumvent the contractor's obligations under 24 CFR part 135.

6. Noncompliance with HUD's regulations in 24 CFR part 135 may result in sanctions, termination of this contract for default, and debarment or suspension from future HUD assisted contracts.

7. With respect to work performed in connection with section 3 covered Indian housing assistance, section 7(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450e) also applies to the work to be performed under this contract. Section 7(b) requires that to the greatest extent feasible (i) preference and opportunities for training and employment shall be given to Indians, and (ii) preference in the award of contracts and subcontracts shall be given to Indian organizations and Indian-owned Economic Enterprises. Parties to this contract that are subject to the provisions of section 3 and section 7(b) agree to comply with section 3 to the maximum extent feasible, but not in derogation of compliance with section 7(b).

8. Every contract or agreement entered into by the Developer which involves funds provided under this contract will have incorporated therein subsection B of Section 6 of this contract.

9. In the event the Developer sells, leases, transfers or otherwise conveys land upon which work in connection with this project is to be performed, the City must be notified in writing, thirty (30) days prior to such action. Further, prior to sale or lease of property purchases, funded under this agreement, the Developer shall include in each contract or subcontract for work on such land, a clause requiring the purchaser, lessee or redeveloper to assume the same obligations as the Developer for work under subsection B of Section 6 of this contract. Each such purchaser, lessee or redeveloper shall be relieved of such obligations upon satisfactory completion of all work to be performed under the terms of the redevelopment contract.

SECTION 7. FEDERAL LABOR STANDARDS PROVISIONS. Except with respect to the rehabilitation or construction of residential property containing less than twelve units, the Developer and all contractors and subcontractors engaged under contracts in excess of \$2,000 for the construction, prosecution, completion or repair of any building or work financed in whole or in part with assistance provided under this contract **will comply with the Davis-Bacon Act** (40 U.S.C. 276 a to a-7), as supplemented by Department of Labor (DOL) regulations (29 CFR, Part 5), the Copeland "Anti-Kickback" Act (18 U.S.C. 874, and 40 U.S.C. 276c) as supplemented in DOL regulations (29 CFR, Part 3), sections 103 and 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327-333) as supplemented by DOL regulations (29 CFR, Part 5), and the regulations issued pursuant thereto, and the Fair Labor Standards Act of 1938, As Amended (29 U.S.C. 201, et seq.). **The Developer shall cause or require to be inserted in full, in all such contracts subject to such regulations, provisions consistent with applicable Federal Labor Standards.** No contracts under this section shall be awarded to any contractors or subcontractors debarred for violating Federal Labor Standards Provisions. **This Project does not include construction, prosecution, completion or repair of more than 11 units, and is exempt from Davis-Bacon Act wage requirements.**

The Developer shall take affirmative action to ensure that applicants for employment are employed, contractors or subcontractors receive contracts, and all employees are treated, without regard to their race, color, religion, sex, or national origin. Such action shall include, but not be limited to the following:

employment, recruitment or recruitment advertising,
contracting or subcontracting, promotion, demotion,
transfer, layoff, termination, rates of pay or other
forms of compensation, and selection for training
including apprenticeship.

The Developer shall incorporate the foregoing requirements of this paragraph in all of its contracts, except those exempt by law, and will require all of its contractors to incorporate such requirements in all subcontracts.

SECTION 503 AFFIRMATIVE ACTION FOR QUALIFIED INDIVIDUALS WITH DISABILITIES:

The Developer and any subcontractors will comply with the provisions of Section 503 of the Rehabilitation Act of 1973, if the funding award of their Agreement is \$2,500 or more, including, but not limited, to the following:

a) The Developer will not discriminate against any employee or applicant for employment because of disability in regard to any position for which the employee or applicant for employment is qualified.

b) The Developer agrees to take affirmative action to employ, advance in employment and otherwise treat qualified individuals with disabilities without discrimination based upon their disability in all employment practices, including, but not limited to, the following:

Employment, recruitment or recruitment advertising, contracting or subcontracting, promotion, demotion, transfer, layoff, termination, rates of pay or other forms of compensation, and selection for training including apprenticeship.

c) **The Developer agrees to post in conspicuous places, within administrative office and warehouse facilities available to employees and applicants for employment, notices, which make reference to the Developer's compliance with The Rehabilitation Act.** Such notices shall state the Developer's obligation under the law not to discriminate on the basis of physical or mental disability and to take affirmative action to employ and advance in employment qualified individuals with disabilities.

SECTION 8. COMPLIANCE WITH LOCAL LAWS. All parties shall comply with all applicable laws, ordinances, codes and regulations of the State of Kansas and local governments.

SECTION 9. ASSIGNABILITY. The Developer shall not assign any interest in this contract without prior written consent of the City.

SECTION 10. POLITICAL ACTIVITY PROHIBITED.

A. None of the funds, materials, property or services provided directly or indirectly under this contract, shall be used for partisan political activity.

B. The funds provided under this contract shall not be engaged in any way in contravention of Chapter 15 of Title 5, U.S.C.

SECTION 11. LOBBYING PROHIBITED. None of the funds provided under this contract shall be used for lobbying and/or propaganda purposes designed to support or defeat legislation pending before the Congress of the United States of America or the Legislature of the State of Kansas.

SECTION 12. PAYMENTS.

A. Compensation and Method of Payment. Compensation and method of payment to the Developer, relative to conducting the operations of the project activities and services as herein described, will be carried out as specified in Exhibit B attached hereto, and will be administered under the established accounting and fiscal policies of the City of Wichita.

B. Total Payments. Total Payment to the Developer will not exceed \$77,884.00 as referenced in Exhibit B. Contract payments above \$77,884.00 are contingent upon the sale of completed projects and extended grant authority as a result of program income generated by the project.

C. Restriction on Disbursements. No Entitlement Funds shall be disbursed to the Developer or contractor except pursuant to a written contract, which incorporates by reference the general conditions of this contract.

D. Unearned Payments. Under this contract unearned payments may be suspended or terminated if the entitlement funds to the City of Wichita under the HOME Investment Partnerships Program (24 CFR Part 92) are suspended or terminated.

SECTION 13. TERMINATION CLAUSE. Upon breach of the contract by the Developer, the City, by giving written notification, may terminate this contract immediately. A breach shall include, but not be limited to, failure to comply with any or all items contained within Section 1 through Section 29, Exhibits and/or provisions of any subsequent contractual amendments executed relative to this contract. In the event of a breach of contract, the Developer agrees to re-pay any HOME funds advanced under this agreement.

SECTION 14. AMENDMENTS.

A. To provide necessary flexibility for the most effective execution of this project, whenever both the City and the Developer mutually agree, changes to this contract may be effected by placing them in written form and incorporating them into this contract.

B. Programmatic changes substantially altering the contract's original intent or financial changes in contract amount or line items in the approved budget (Exhibit C) that are greater than \$10,000 shall require a written contract amendment. The amendment must be approved by the City Council and must also be approved and signed by all parties to the original contract.

SECTION 15. POLLUTION STANDARDS. In the event the grand total of Exhibit C is in excess of \$100,000, the Developer agrees to comply with all applicable standards, orders, or regulations issued pursuant to the Clean Air Act of 1970 (42 U.S.C. 185, et seq.) and the Federal Water Pollution Control Act (33 U.S.C.1251, et seq.), As Amended.

SECTION 16. ARCHITECTURAL BARRIERS. Every building or facility (other than a private residential structure) designed, constructed or altered with funds provided pursuant to this contract shall be designed, altered or constructed in accordance with the standards issued under the Architectural Barriers Act of 1968 (42 USC 4151 et. seq.), as amended, and the minimum guidelines and requirements issued by the Architectural and Transportation Compliance Board pursuant to Section 502 (b.) (3.) of the Rehabilitation Act of 1973 (29 USC 792 (b.) (3.) as amended, and Section 504 of the Rehabilitation Act of 1973.

The Section 504 implementing regulations (24 CFR Part 8) apply to this project. Newly constructed or rehabilitated housing for purchase or single-family housing developed with Federal funds must be made accessible upon the request of the prospective buyer if the nature of the prospective occupant's disability so requires. Should a prospective buyer request a modification to make a unit accessible, the owner/developer must work with the buyer to provide specific features that meet the need(s) of the prospective homebuyer/occupant. If the design features that are needed for the buyer are design features that are covered in the Uniform Federal Accessibility Standards (UFAS), those features must comply with the UFAS standard. The Developer shall be permitted to depart from the standard in order to have the buyer/occupant's needs met.

Multi-family dwellings must also meet the design and construction requirements at 24 CFR 100.205, which implement the Fair Housing Act (42 U.S.C. 3601-19), and Section 504 of the Rehabilitation Act of 1973, as applicable.

SECTION 17. ANTI-TRUST LITIGATION. For good cause, and as consideration for executing this contract, the Developer, acting herein by and through its authorized agent, hereby conveys, sells, assigns and transfers to the City of Wichita all right, title and interest in and to all causes of action it may now or hereafter acquire under the anti-trust laws of the United States and the State of Kansas, relating to the particular product, products, or services purchased or acquired by the Developer pursuant to this contract.

SECTION 18. UNIFORM GRANT ADMINISTRATIVE REQUIREMENTS AND COST PRINCIPLES. During the administration of this contract, the Developer shall comply with 24 CFR 84.21, Standards for financial management systems, as follows:

- (a) Developer is required to relate financial data to performance data and develop unit cost information whenever practical.
- (b) Developer's financial management systems shall provide for the following:
 - (1) Accurate, current and complete disclosure of the financial results of each federally-sponsored project or program in accordance with the reporting requirements set forth in §84.52. If a recipient maintains its records on other than an accrual basis, the Developer shall not be required to establish an accrual accounting system. The Developer may develop such accrual data for reports on the basis of an analysis of the documentation on hand.

- (2) Records that identify adequately the source and application of funds for federally-sponsored activities. These records shall contain information pertaining to Federal awards, authorizations, obligations, unobligated balances, assets, outlays, income and interest.
 - (3) Effective control over and accountability for all funds, property and other assets. The Developer shall adequately safeguard all such assets and assure they are used solely for authorized purposes.
 - (4) Comparison of outlays with budget amounts for each award. Whenever appropriate, financial information should be related to performance and unit cost data.
 - (5) Written procedures to minimize the time elapsing between the transfer of funds to the Developer from the City, and the issuance or redemption of checks, warrants or payments by other means for program purposes by the Developer. To the extent that the provisions of the Cash Management Improvement Act (CMIA) (Pub. L. 101-453) govern, payment methods of State agencies, instrumentalities, and fiscal agents shall be consistent with CMIA Treasury-State Agreements or the CMIA default procedures codified at 31 CFR part 205, "Withdrawal of Cash from the Treasury for Advances under Federal Grant and Other Programs."
 - (6) Written procedures for determining the reasonableness, allocability and allowability of costs in accordance with the provisions of the applicable Federal cost principles and the terms and conditions of the award.
 - (7) Accounting records including cost accounting records that are supported by source documentation.
- (c) Where the City guarantees or insures the repayment of money borrowed by the Developer, The City, at its discretion, may require adequate bonding and insurance if the bonding and insurance requirements of the recipient are not deemed adequate to protect the interest of the City.
- (d) The City may require adequate fidelity bond coverage where the Developer lacks sufficient coverage to protect the City's interest.
- (e) Where bonds are required in the situations described above, the bonds shall be obtained from companies holding certificates of authority as acceptable sureties, as prescribed in 31 CFR part 223, "Surety Companies Doing Business with the United States."

SECTION 19. RENEGOTIATION. This contract may be renegotiated in the event alternate sources of funding become available during the term of the contract.

SECTION 20. LEAD-BASED PAINT POISONING PREVENTION. Should HOME funding be utilized for rehabilitation of existing structures, the Developer will comply with the lead-based paint provisions at 24 CFR Part 35 and at 24 CFR 570.608, and Title X of the Housing and Community Development Act of 1992. Compliance will include all activities

required by these regulations. The Developer also agrees to document each client file with regard to these provisions, and action(s) taken if required. A copy of the current HUD Lead-Based Paint Certification will be retained in the file of each client assisted with HOME funds under this contract. The Developer will comply with the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4821 et seq.) and 24 CFR part 35. The project will comply with section 92.355 of the HOME rule. The Developer will also comply with the lead-based paint provisions of section 982.401(j) and the Lead-Based Paint provisions of the Section 8 Housing Quality Standards (HQS), irrespective of the applicable property standard under section 92.251. The Developer will comply with sections 1012 and 1013 of the Residential Lead-Based Paint Hazard Reduction Act of 1992 and the regulations found at 24 CFR part 35.

Section 21. TERMINATION FOR CONVENIENCE. The City may terminate this contract at any time by a notice in writing from the City to the Developer. If the contract is terminated by the City as provided herein, the Developer will be paid an amount which bears the same ratio to the total compensations the services actually performed bear to the total services of the Developer covered by this contract, less payments of compensation previously made: Provided, however, that if less than sixty (60) percent of the services covered by this contract have been performed upon the effective date of such termination, the Developer shall be reimbursed (in addition to the above payment) for that portion of the actual out-of-pocket expense (not otherwise reimbursed under this contract) incurred by the Developer during the contract period which are directly attributable to the uncompleted portion of the services covered by this contract. If this contract is terminated due to the fault of the Developer, Section 13 herein relative to termination shall apply.

SECTION 22. REFUND OF INCOME. All income earned by the project as a result of entitlement funds (program income) shall be accounted for and refunded to the City as it is received, unless otherwise specified in Exhibit B. Earned income shall be defined as fees received, subsidies, sales and any program income.

SECTION 23. REVERSION OF ASSETS. In the event this contract is terminated, due to breach, convenience, or expiration, the Developer agrees to transfer ownership of any real property purchased with HOME funds under this agreement or any prior written agreement, to the City, upon written notification. This clause shall not apply if the project has been completed as contractually agreed, and the applicable affordability period has expired.

SECTION 24. OTHER FEDERAL REGULATIONS. Activities funded with HOME funds must comply with all of the following federal laws, executive orders and regulations pertaining to fair housing and equal opportunity, as follows:

Title VIII of the Civil Rights Act of 1968 (Fair Housing Act, (42 U.S.C. 3601-3620) As Amended, and implementing regulations at 24 CFR 100. The Fair Housing Act prohibits discrimination in the sale, rental and financing of dwellings and in other housing-related transactions, based on race, color, national origin, religion, sex, familial status, and disability.

Title VI of the Civil Rights Act of 1964, As Amended (42 U.S.C. 2000d et seq.). This law prohibits discrimination on the basis of race, color, and national origin in all Federally-assisted programs.

The Age Discrimination Act of 1975, As Amended (42 U.S.C. 6101), and implementing regulations at 24 CFR Part 146. This law prohibits age discrimination based on disability in all programs or activities operated by recipients of Federal financial assistance.

Equal Opportunity in Housing (Executive Order 11063, and Executive Order 12259), and implementing regulations at 24 CFR Part 107. These Executive Orders prohibit discrimination against individuals on the basis of race, color, religion, sex, and national origin in the sale, rental, leasing or other disposition of residential property, or in the use or occupancy of housing assisted with Federal funds.

Title II of the Americans with Disabilities Act (ADA). Title II of ADA prohibits discrimination against persons with disabilities in all programs, activities, and services of a public entity. (42 U.S.C. 12131; 47 U.S.C. 155, 201, 218, and 225)

SECTION 25. AFFORDABILITY. Housing assisted with HOME funds must meet the affordability requirements specified at 92.254 of the HOME Regulation (24 C.F.R. Part 92). HOME funds must be re-paid to the City if the housing does not meet the affordability requirements for the specified time period. The City will file a mortgage on each property upon purchase for redevelopment, and will hold said mortgage until such time as the property is re-sold to an owner-occupant homebuyer receiving a down payment and closing costs assistance loan through the City's HOMEownership 80 Program. The City will hold the long-term deed restriction placed on the property following the sale of the home as described within this paragraph.

SECTION 26. DISBURSEMENT OF HOME FUNDS. The Developer may not request disbursement of HOME funds under this agreement until the funds are needed for payment of eligible costs. Unless otherwise approved by the Housing and Community Services Department, payments to the Developer will be provided on a reimbursement basis, up to two times per month. The amount of each request will be limited to the amount needed. Developer must provide detailed records to substantiate the amount of HOME funds requested under this agreement, and must retain records, such as invoices, to substantiate said amounts.

SECTION 27. PROPERTY AND HOUSING STANDARDS. Housing that is constructed or rehabilitated with HOME funds must meet all applicable codes, rehabilitation standards, ordinances, and zoning ordinances at the time of project completion. Newly constructed housing must meet the current edition of the Model Energy Code published by the Council of American Building Officials. (24 CFR 92.251)

SECTION 28. RELIGIOUS ORGANIZATIONS. Religious organizations may not require a beneficiary to participate in inherently religious activities, such as worship, religious instruction, or proselytizing.

Faith-based organizations may retain independence from Federal, state, and local governments to carry out their missions, including the definition, practice, and expression of its religious beliefs, provided that HOME funds do not financially support inherently religious activities. The organization's Board of Directors may not be selected based on religious practice. Religious references in the organization's mission statement and other governing documents are acceptable. 24 CFR 92.257(c).

Religious organizations must serve all eligible program beneficiaries without regard to religion, and may not restrict HOME-assisted housing to people of a particular religion or religious denomination. The eligibility of an applicant cannot be reliant on the applicant's participation in religious activities or programs supported by the organization, even if funded with other non-Federal sources.

SECTION 29. APPENDICES. All exhibits referenced in this contract, all amendments mutually agreed upon, and modifications made by both parties are hereby incorporated as though fully set forth herein.

Exhibit A: Revised Non-Discrimination & Equal Employment
Opportunity Statement

Exhibit B: Performance Criteria and Program Description

Exhibit C: Budget

Power CDC, Inc.

Signature

Title of POWER CDC Officer

Date

**CITY OF WICHITA, KANSAS
at the Direction of the City Council**

Carl Brewer, Mayor

Date

ATTEST:

Karen Sublett, City Clerk

Date

Approved as to Form:

Gary E. Rebenstorf, City Attorney
and Director of Law of the
City of Wichita

Date

**REVISED NON-DISCRIMINATION AND
EQUAL EMPLOYMENT OPPORTUNITY/AFFIRMATIVE ACTION PROGRAM
REQUIREMENTS STATEMENT FOR CONTRACTS OR AGREEMENTS**

During the term of this contract, the contractor or subcontractor, vendor or supplier of the City, by whatever term identified herein, shall comply with the following Non-Discrimination--Equal Employment Opportunity/Affirmative Action Program Requirements:

- A. During the performance of this contract, the contractor, subcontractor, vendor or supplier of the City, or any of its agencies, shall comply with all the provisions of the Civil Rights Act of 1964, as amended: The Equal Employment Opportunity Act of 1972; Presidential Executive Orders 11246, 11375, 11131; Part 60 of Title 41 of the Code of Federal Regulations; the Age Discrimination in Employment Act of 1967; the Americans with Disabilities Act of 1990 and laws, regulations or amendments as may be promulgated thereunder.
- B. Requirements of the State of Kansas:
 - 1. The contractor shall observe the provisions of the Kansas Act against Discrimination (Kansas Statutes Annotated 44-1001, et seq.) and shall not discriminate against any person in the performance of work under the present contract because of race, religion, color, sex, disability, and age except where age is a bona fide occupational qualification, national origin or ancestry;
 - 2. In all solicitations or advertisements for employees, the contractor shall include the phrase, "Equal Opportunity Employer", or a similar phrase to be approved by the "Kansas Human Rights Commission";
 - 3. If the contractor fails to comply with the manner in which the contractor reports to the "Kansas Human Rights Commission" in accordance with the provisions of K.S.A. 1976 Supp. 44-1031, as amended, the contractor shall be deemed to have breached this contract and it may be canceled, terminated or suspended in whole or in part by the contracting agency;
 - 4. If the contractor is found guilty of a violation of the Kansas Act against Discrimination under a decision or order of the "Kansas Human Rights Commission" which has become final, the contractor shall be deemed to have breached the present contract, and it may be canceled, terminated or suspended in whole or in part by the contracting agency;

5. The contractor shall include the provisions of Paragraphs 1 through 4 inclusive, of this Subsection B, in every subcontract or purchase so that such provisions will be binding upon such subcontractor or vendor.
- C. Requirements of the City of Wichita, Kansas, relating to Non-Discrimination -- Equal Employment Opportunity/Affirmative Action Program Requirements:
1. The vendor, supplier, contractor or subcontractor shall practice Non-Discrimination -- Equal Employment Opportunity in all employment relations, including but not limited to employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. The vendor, supplier, contractor or subcontractor shall submit an Equal Employment Opportunity or Affirmative Action Program, when required, to the Department of Finance of the City of Wichita, Kansas, in accordance with the guidelines established for review and evaluation;
 2. The vendor, supplier, contractor or subcontractor will, in all solicitations or advertisements for employees placed by or on behalf of the vendor, supplier, contractor or subcontractor, state that all qualified applicants will receive consideration for employment without regard to race, religion, color, sex, "disability, and age except where age is a bona fide occupational qualification", national origin or ancestry. In all solicitations or advertisements for employees the vendor, supplier, contractor or subcontractor shall include the phrase, "Equal Opportunity Employer", or a similar phrase;
 3. The vendor, supplier, contractor or subcontractor will furnish all information and reports required by the Department of Finance of said City for the purpose of investigation to ascertain compliance with Non-Discrimination -- Equal Employment Opportunity Requirements. If the vendor, supplier, contractor, or subcontractor fails to comply with the manner in which he/she or it reports to the City in accordance with the provisions hereof, the vendor, supplier, contractor or subcontractor shall be deemed to have breached the present contract, purchase order or agreement and it may be canceled, terminated or suspended in whole or in part by the City or its agency; and further Civil Rights complaints, or investigations may be referred to the State;
 4. The vendor, supplier, contractor or subcontractor shall include the provisions of Subsections 1 through 3 inclusive, of this present section in every subcontract, subpurchase order or subagreement so that such provisions will be binding upon each subcontractor, subvendor or subsupplier.
- D. Exempted from these requirements are:

1. Those contractors, subcontractors, vendors or suppliers who have less than four (4) employees, whose contracts, purchase orders or agreements cumulatively total less than five thousand dollars (\$5,000) during the fiscal year of said City are exempt from any further Equal Employment Opportunity or Affirmative Action Program submittal.
2. Those vendors, suppliers, contractors or subcontractors who have already complied with the provisions set forth in this section by reason of holding a contract with the Federal government or contract involving Federal funds; provided that such contractor, subcontractor, vendor or supplier provides written notification of a compliance review and determination of an acceptable compliance posture within a preceding forty-five (45) day period from the Federal agency involved.

Exhibit B

PERFORMANCE CRITERIA AND CONTRACT OBJECTIVES

It is mutually agreed and understood by the City of Wichita and Power CDC, Inc., hereinafter referred to as the "City" and "Developer" (or POWER CDC) respectively, that execution of this contract obligates the Developer to the following performance requirements.

The Developer, a Community Housing Development Organization (CHDO), is receiving this grant funding as CHDO Set-Aside Funding, under HOME regulations, as specified in 24 CFR 92.300.

In return for the \$77,884 remuneration stated herein, the Developer agrees to undertake an affordable housing program, which will result in the acquisition of existing vacant homes or vacant lots located within the boundaries of any of the City's Northeast Local Investment Area. Existing structures acquired for redevelopment must be vacant and unoccupied for a period of at least 90 days, and must be demolished with a new single-family home to be constructed on each site. Vacant lots must also be re-developed with new single family home on each site. A minimum of two new single-family homes are to be constructed/developed and sold to owner-occupant homebuyers.

Housing constructed under this agreement must be re-sold to HOME-compliant owner-occupant buyers, with down payment and closing costs assistance provided through the City's HOMEownership 80 program. The City will hold the deed restrictions for this HOME assistance. (24 CFR 92.254, Qualification as Affordable Housing, Homeownership.) The Developer represents and agrees that its purchase of the properties and its other undertakings pursuant to this Agreement are, and will be, for the purpose of redevelopment of such property and not for speculation.

The Developer represents and agrees that it will remain the owner of the properties until it reaches agreement with a prospective buyer(s) of the properties and, by mutual agreement, the Developer will transfer title to the prospective buyer. All HOME assistance will be repaid to the City; except in cases where there are no net proceeds or where the net proceeds are insufficient to repay the full amount of assistance. Net proceeds will be considered funds available following adjustment for approved additional costs incurred by the Developer to prepare the property for ownership that were not collectable through sale of property. Funds that are not recoverable will be considered a development grant subsidy to the Developer.

I. Project Requirements

- A. Project must conform to regulations under 24 CFR Part 92. The HOME Investment Partnerships Program regulation. Specific references can be found as follows:

24 CFR 92.250, Maximum Per Unit Subsidy: The amount of HOME funds invested per unit may not exceed the per-unit dollar limits established under section 221 (d)(3)(ii) of the National Housing Act (12 U.S.C. 17151(d)(3)(ii)) for elevator-type projects that apply to the City of Wichita.

24 CFR 92.251, Property Standards: Housing constructed with HOME funds must meet all applicable local codes, ordinances and zoning ordinances at the time of project completion, and must comply with the current version of the CABO Model Energy Code. Housing must be inspected upon completion and throughout construction to verify compliance.

24 CFR 92.254(a)(2)(iii), Maximum Property Value: Housing created or acquired and rehabilitated with HOME funds must be modest in nature and affordable to a low-income buyer. The maximum purchase price or value cannot exceed 95 percent of median purchase price for the area, as determined by HUD.

- B. Prior to executing any contracts for sale of the assisted properties the Developer must confirm that the City has certified that the applicant household meets the HOME Program income requirements and that the household's eligibility has been verified through a review of source documentation in accordance with 24 CFR 92.203.

II. Program Content

- A. The use of HOME funds provided under this contract will be limited to the subsidy of actual costs involved in the acquisition of property, construction of homes, purchase and re-habilitation of existing homes, demolition, and the developer fees earned in connection with completion of each unit.

Funding under this agreement will be provided in the form of 0% loans to complete projects as approved on a case-by-case basis by the Department of Housing and Community Services.

Developer shall obtain construction loans in order to leverage HOME funds construction investment, in an amount equivalent to 50% or more of the appraised value of the home to be constructed.

III. Administration

The POWER CDC President/C.E.O. will supervise operations and administration on a day-to-day basis. The POWER CDC Board of Directors is ultimately responsible for program administration.

- A. Funding: It is mutually agreed by and between the City and the Developer that the total HOME funds available to POWER CDC for this project will be \$77,884.00, in the form of a forgivable development subsidy loan, to be used as set forth in the sections entitled Budget and Method of Payment.
- B. Budget: The City shall pay the Developer as hereinafter set out; the maximum of \$77,884.00 for the program described in this contract. A developer fee in the amount of 10% of the total development cost will be paid to the Developer in connection with each completed project. The developer fee will be pre-determined at the onset of the construction of each home, and will be paid upon the closing of the sale of each individual home. Proceeds from the sale of homes, less the aforementioned developer fee, and applicable costs will be returned to the City, in the form of a payoff of development subsidy loans provided under this agreement. Contract payments over and above the original budgeted amount are contingent upon the sale of completed homes/projects, and extended grant authority as a result of repayments generated by the sale of completed homes. Extended grant authority may be utilized to develop additional housing units under the terms of this agreement. Funding under this agreement shall be originally budgeted as follows:

Contractual Expenses: (Acquisition, Demolition, Construction Expenses, Eligible Project Soft Costs deemed necessary and as approved by the Department of Housing and Community Services, Site Improvements, 10% Developer Fee.)

\$77,884.00

TOTAL \$77,884.00

- C. Method of Payment: The Developer agrees that payments under this contract shall be made according to established budgeting, purchasing and accounting procedures of the City of Wichita and HOME.
1. The City and POWER CDC also agree that the categories of expenditures and amounts are estimates and may vary during the course of the contract. Changes greater than \$10,000, other than those within the scope of this agreement must be approved by the City Council.
 2. POWER CDC will ensure all costs are eligible according to the approved budget. The original documentation supporting any expenditure made under this agreement will be retained in the Developer's files for five (5) years after the final audit of expenditures made under this contract and throughout the applicable period of affordability.
 3. Construction costs to be reimbursed based on direct costs and percentage completion, as determined by the City, of each project. Fully documented

draw requests will be processed on Friday of the week submitted. Payment will be available for receipt by the Developer within three weeks of the Friday on which the draw request was received.

D. Records and Reports

1. Records shall be maintained documenting performance to be indicated in an annual report. Records are subject to review by the City.
2. **The Developer will provide, for the year ending June 30 of each year, beginning June 30, 2009, an annual report of the HOME funded portion of the program.** It shall indicate yearly expenditures, cumulative expenditures since program inception and balance remaining. Yearly expenditures will be identified by category of expenditure (acquisition, rehabilitation, developers fee, accounting & legal, architects). The report shall also indicate, by race and sex, the number of households/persons served during the year with HOME funds. The report shall also provide the total number of contracts awarded and the number of contracts awarded to minority-and women-owned businesses. The City reserves the right to change the due dates and contents of reports to be submitted under this clause.

The financial reports will be provided until such time as there are no expenditures. The owner shall continue to provide a report that indicates, by race and sex, the number of households/persons served during the year with HOME funds, when applicable. The report shall also provide the total number of contracts awarded and the number of contracts awarded to minority- and women-owned businesses. Said report shall be due to the City of Wichita **July 10** of each applicable year.

3. Additionally, a narrative or other description of progress may be provided.
4. Records shall be maintained valuing in-kind services, and donated goods and services, to be reported in the same manner as other annual reports.

IV. Conditions Precedent to Construction

The following items (matters) must be provided (completed) prior to beginning construction on the project and related improvements:

- A. The Developer agrees to execute a document placing deed restrictions and covenants against properties on which projects are constructed, in order to comply with 24 CFR 92.254. Said restrictions and covenants will be in force until such time as a property/home are re-sold, as specified in this agreement.

- B. Provide a detailed overall project/unit budget, including but not limited to a Sources and Uses of Funds Statement.
- C. Provide Certificates regarding Debarment and Suspension, and/or lists of contractors/subcontractors to be utilized and other file documentation as requested by the City in order to comply with HOME regulations.
- D. Submit final construction plans, specifications and a budget for each home to be constructed for approval by the Housing and Community Services Department, City of Wichita. (Not in connection with plan review or obtaining applicable permits.) Individual home construction may not begin until a Notice to Proceed has been issued by the Housing and Community Services Department.
- E. Provide evidence that ownership interest in the property vests in POWER CDC, Inc.. (Copy of Deed, and/or Title Insurance Binder/Policy)
- F. The Developer will notify the City of any properties it contracts to purchase, or intends to develop with funding provided under this agreement, in order for the City to complete the environmental reviews required under **24 CFR 92.352**, prior to closing of the purchase. Developer agrees to comply with all requirements imposed on a particular project/site as a result of the environmental review process.
- G. The Developer will notify the City of any properties it contracts to purchase, in order for the City to complete the appropriate environmental reviews prior to closing of the purchase.
- H. The Developer will obtain any and all permits required by the City prior to undertaking construction.
- I. The Developer will obtain construction loans from private sector financial institutions, in an amount equivalent to a minimum of 50% of the appraised value of the home to be developed/constructed on each project site.
- J. The Developer will obtain the approval of the City of Wichita Housing and Community Services Department for any changes to the previously submitted project plan. This includes changes in costs, as well as changes in the project scope or plans.
- K. The Developer shall obtain Builder's Risk Insurance for the home to be constructed, in an amount sufficient to repay the amount of the face amount of the first mortgage construction loan, plus anticipated interest expense, and the total anticipated HOME funds investment in the project. The Developer is also responsible for workers compensation insurance and general liability insurance.

- L. The Developer shall not undertake construction, reconstruction or rehabilitation on a site contaminated by hazardous materials without undertaking a Phase I environmental assessment of the site in a form, scope and substance satisfactory to the City. The Developer shall consult with Wichita/Sedgwick County Department of Environmental Health regarding the necessity and scope of the environmental assessment. The developer shall remediate or cause to be remediated all contaminants and hazardous materials as required or recommended by the Wichita/Sedgwick County Department of Environmental Health. Such remediation shall be accomplished in accordance with the requirements of applicable environmental laws of the Kansas Department of Health and Environment, the federal Environmental Protection Agency and the U.S. Department of Housing and Urban Development. During the process of redevelopment and/or construction, should the Developer discover any soil staining or odors emanating from soil at the project site, the Developer must cease work immediately, and notify the City.

V. Other Program Requirements

- A. The Developer agrees to adopt affirmative marketing procedures and requirements and prepare a written Affirmative Marketing Plan for this project. The Affirmative Marketing Plan must be available for public inspection in the Developer's office. The plan must contain specific steps and actions that the Developer will take to provide information and otherwise attract eligible persons for all racial, ethnic, and gender groups in the housing market area to the available housing. Specific activities that must be included in the Developer's Affirmative Marketing Plan include:
 - 1. Display the Equal Housing Opportunity logo, slogan or statement in all advertising material related to this project.
 - 2. Display the HUD Equal Housing Opportunity logo, slogan or statement at the construction site, from the start of construction, and properly maintained throughout the construction and rental period.
 - 3. No later than 90 days prior to engaging in marketing activities, the Developer should notify the City of Wichita Housing and Community Services Department, either in writing or by telephone of the dates on which the Developer plans to: (1) begin initial marketing activities; (2) accept purchase contracts; and (3) start initial sales.
 - 4. The Developer must begin marketing activities 90 days prior to the anticipated date of availability for occupancy of the first unit of the project.

5. The Developer must market/advertise the housing opportunity utilizing publications, such as community newspapers, in an effort to attract income-qualified homebuyers.
- B. The City and agents designated by the City shall, at all reasonable times during the development of the project and construction or rehabilitation, have the right of entry and free access to the project and all parts thereof, and the right to inspect all work done, labor performed and materials furnished in or about the project and all records relative to all payments made in connection with the project.

The Developer shall have the responsibility of maintaining the property until such time as the development project is complete and the newly constructed home has been sold to a HOME-eligible buyer.

- C. Site Improvements: The City will require a Developer to undertake site improvements upon completion of construction. Site improvements include, but are not limited to, sodding of front yards, and 4' chain-link fencing. Said site improvements must be undertaken when seasonally appropriate. The City reserves the right to make an exception on a case-by-case basis.
- D. Warranty: The Developer must provide a one-year construction warranty for all homes constructed or rehabilitated under this contract.
- E. Developer is required to obtain insurance coverage for all perils, including vandalism, in an amount equivalent to the amount of the first mortgage construction loan balance plus interest, and the total HOME funds investment, in the event that a home constructed under this agreement has not sold, as of the day of completion, and the Builder's Risk Insurance Policy will no longer provide adequate coverage.
- F. Developer is responsible for retaining all records in connection with projects undertaken with HOME funding provided under this contract, including but not limited to, real estate purchase contracts, invoices, property development documentation, infrastructure development, and other records as further specified in this agreement.
- G. Developer shall apply for City incentives, as available, for projects undertaken with funding provided under this agreement, including property tax rebates and permit fee waivers.

VI. Program Evaluation

The City shall evaluate this project based on the objectives stated in this Exhibit. Failure by the Developer to provide the level of service stated herein may result in a determination by the City to modify the level of payment to the Developer on a pro rata basis with level

of service. The Developer's records are subject to review by the City to ensure the accuracy and validity of information reported in monthly progress reports.

BUDGET

Contractual Expenses: (Acquisition, Demolition, Rehabilitation or Construction Expenses, Eligible Project Soft Costs deemed necessary and as approved by the Department of Housing and Community Services, Site Improvements, 10% Developer Fee.)

\$77,884.00

TOTAL

\$77,884.00

**City of Wichita
City Council Meeting
July 22, 2008**

TO: Mayor and City Council

SUBJECT: HOME CHDO Housing Development Funding Agreements
(Districts I, III, IV, V, VI)

INITIATED BY: Housing and Community Services

AGENDA: Consent

Recommendation: Approve the funding agreements.

Background: On March 18, 2008, the City Council approved an allocation of \$266,914 in HOME funding for housing development projects to be carried out by three of the City's designated Community Housing Development Organizations (CHDO's), as part of the Consolidated Plan funding process. The following allocations were approved:

- \$123,596 for Mennonite Housing Rehabilitation Services, Inc. (MHRS)
- \$77,884 for Power CDC
- \$65,434 for Community Housing Services of Wichita/Sedgwick County (CHS)

The City Council also approved an allocation of \$200,000 for the CHDO Boarded-up House Program. This program provides a means for CHDO's to obtain zero-interest, forgivable loans to address blighted housing in the City's Local Investment Areas (LIA's). City-approved CHDO's with experience in single-family housing development are eligible for participation in the program, and may utilize the funding to acquire boarded-up or otherwise blighted structures for the purpose of rehabilitation or demolition and construction of a new home.

Analysis: In accordance with funding allocations previously approved by the City Council, Housing and Community Services is requesting approval for the following HOME funding agreements:

- \$123,596 for MHRS, in order to partially finance the development of at least five new homes in the City's Local Investment Areas;
- \$77,884 for Power CDC to partially finance the development of at least two new homes in the City's Northeast Local Investment Area;
- \$65,434 for CHS, in order to partially finance the construction of at least two new homes in the City's Local Investment Areas;
- \$200,000 for the 2008-2009 Boarded-up House Program, in order to partially finance the rehabilitation or demolition of four vacant, blighted houses. In the event houses are demolished, new homes will be constructed on the subject sites. Activities will be undertaken within the City's Local Investment Areas. MHRS, CHS, Power CDC and Wichita Indochinese Center, Inc., will be parties to the agreement. Subsidy loans will be provided on a first-come, first-served basis.

All homes constructed or rehabilitated with HOME funding will be sold to income-eligible, owner-occupant families receiving down payment and closing costs assistance through the City's HOMEownership 80 Program.

As part of this action, Housing and Community Services is also requesting an additional allocation of \$14,944.97 for HOME Program Administration. HOME regulations permit the retention of 10% of program income receipts for HOME administration expenses. The additional funding for HOME Program Administration is available from loan repayments previously allocated for eligible HOME projects, and is needed to ensure proper staff administration of the HOME program.

Financial Considerations: Total project cost of the three new CHDO housing development projects and the Boarded-up House Program is estimated to be \$1,534,210. HOME funding may be utilized to cover the costs involved in acquisition, rehabilitation and/or construction, site improvements, developer fees, and when necessary, demolition, for 13 homes. Each CHDO will leverage HOME funds with private sector construction loans or other financing. CHDO's participating in the Boarded-up House Program will also leverage HOME funds with private sector construction loans.

Goal Impact: Projects to be funded under the subject HOME contracts will contribute to the goal of Economic Vitality and Affordable Living.

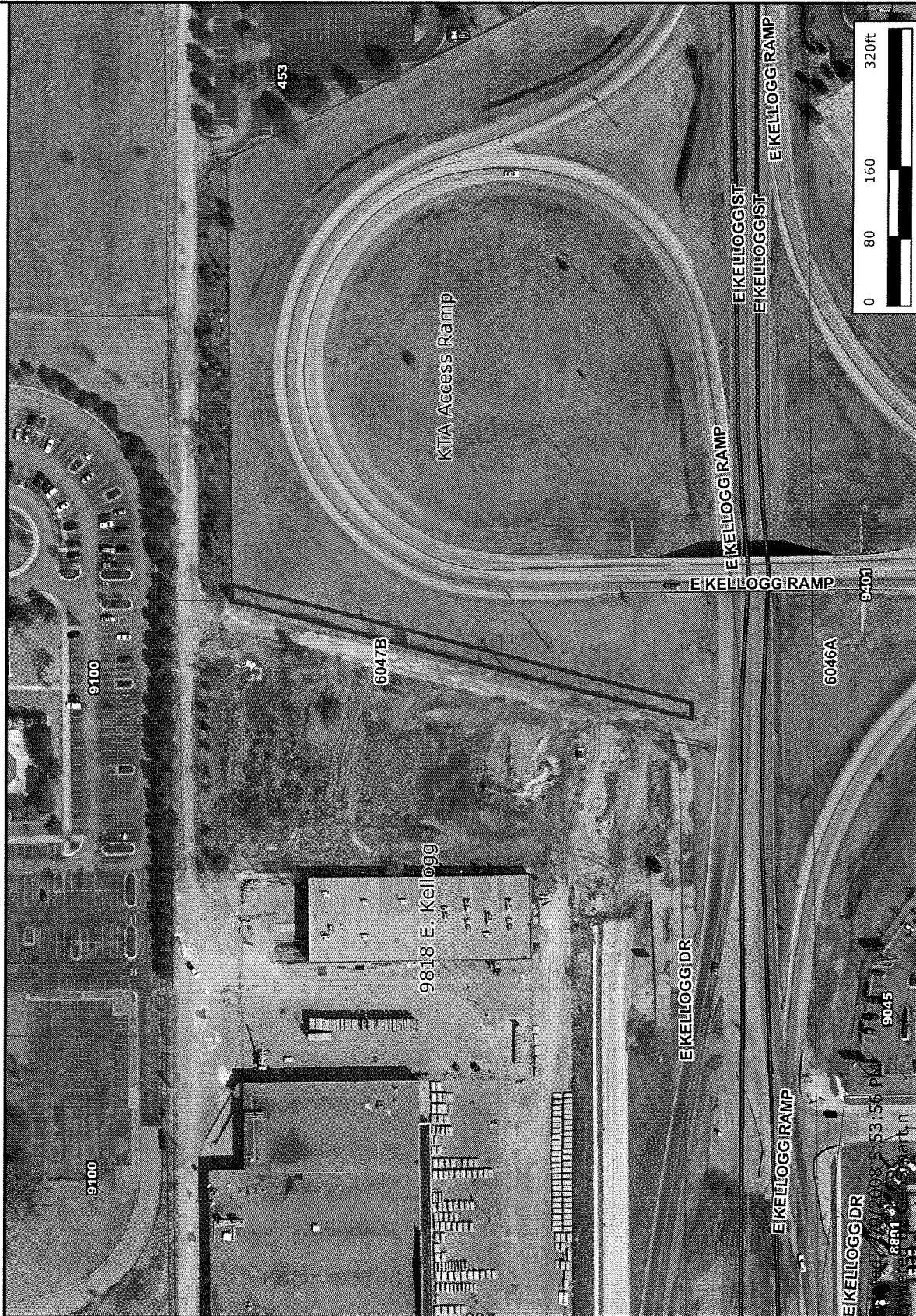
Legal Considerations: All funding agreements referenced herein have been approved as to form by the City Law Department. HOME regulations require completion of HOME-eligible projects on sites purchased with HOME funds. With the exception of the funding allocated for the Boarded-up House Program, the CHDO project funding is provided as part of the City's mandatory 15% set-aside for eligible CHDO's.

Recommendations/Actions: It is recommended that the City Council approve the HOME funding agreements for MHRS, CHS and Power CDC, and the new funding agreement for the Boarded-up House Program, and authorize the necessary signatures.

Attachments: Funding Agreements.



Parcel Adjacent to 9818 East Kellogg



| | |
|--|---|
| <input type="checkbox"/> Identified Features | <input type="checkbox"/> Property Parcels |
| Roads | |
| State Highway | |
| US Federal Highway | |
| Interstate | |
| KTA | |
| Arterial | |
| Collector | |
| Minor | |
| Ramp | |
| Railroads | |
| Quarter Section | |
| Waterways | |
| Streams | |
| Parks | |
| Airports | |
| SDERASTER.S-DEDATA.ORTH-01FT | |
| SDERASTER.S-DEDATA.ORTH-0 | |
| City Limits | |
| Andale | |
| Bel Aire | |
| Bentley | |
| Cheney | |
| Clearwater | |
| Colwich | |
| Derby | |
| Eastborough | |
| Garden Plain | |
| Goddard | |
| Haysville | |
| Kechi | |
| Maize | |
| Mount Hope | |



Every reasonable effort has been made to assure the accuracy of the maps and associated data provided herein. This information is provided with the understanding that the data are susceptible to a degree of error, and conclusions drawn from such information are the responsibility of the reader. The City of Wichita makes no warranty, representation or guaranty as to the content, accuracy, timeliness or completeness of any of the data provided herein. Some data provided here and used for the preparation of these maps has been obtained from public records not created or maintained by the City of Wichita. The City of Wichita shall assume no liability for any decisions made or actions taken or not taken by the reader in reliance upon any information or data furnished hereunder. The user should consult with the appropriate departmental staff member, e.g. Planning, Parks & Recreation, etc. to confirm the accuracy of information appearing in the visual presentations accessible through these web pages.



NO SALES VALIDATION REQUIRED
KSA 79-1437e (a) (13)

QUIT CLAIM DEED

This indenture made this day of 1st Day of July, 2008, between Land Acquisitions, Inc., a Delaware corporation as GRANTOR, and the City of Wichita, Kansas, a Kansas municipal corporation as GRANTEE.

WITNESSETH: That the GRANTOR, on behalf of itself, administrators, successors, representatives and assigns, for and in consideration of the sum of ONE DOLLAR, cash in hand paid at or before delivery of this document, the receipt of which is hereby acknowledged, has bargained and sold and by this document and does grant, bargain, sell, convey, remise, release and forever QUIT CLAIMS unto said GRANTEE, on behalf of itself, administrators, successors, representatives and assigns, all the right, title, interest, claim or demand which the GRANTOR may have had in and to the following described property:

KEY NUMBER: C-00317-00UP
LEGAL DESCRIPTION: BEG N ROW LI 54 HWY 1443.61 FT W OFF LI SE1/4 W 18.64 FT NE 549.21 FT E 18.63 FT
SW 549.18 FT TO BEG. SEC 20-27-2E, WICHITA, SEDGWICK COUNTY, KS

TO HAVE AND TO HOLD the said tract of land, with all singular the rights, members and appurtenances thereof, so that neither GRANTOR nor any other person claiming under him shall at any time claim or demand any right, title or interest to the said tract of land or its appurtenances.

However, should Grantee ever decide or attempt to sell or otherwise dispose of its ownership interest in the subject property, then ownership of the subject property shall revert to the Grantor.

IN WITNESS THEREOF, the said GRANTOR has herewith set its hand and seal, the day and year first above written.

Land Acquisitions, Inc.

By: Gerald K. Cain
Gerald K. Cain, President

Attest:

Lee Courtney
Lee Courtney, Secretary

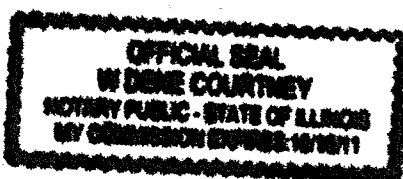
STATE ILLINOIS)
)SS
COUNTY OF COOK)

I, W. Dene Courtney, a Notary Public in and for said County and State, DO HEREBY CERTIFY that Gerald K. Cain, President and Lee Courtney, as Secretary of Land Acquisitions, Inc. who are personally known to me to be the same persons whose names are subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that they signed, sealed and delivered the said instrument as their free and voluntary act, for uses and purposes therein set forth.

Given under my hand and Notarial seal this 1st day of July, 2008.

(SEAL)

W. Dene Courtney
W. Dene Courtney, Notary Public



CITY OF WICHITA
City Council Meeting
July 22, 2008

TO: Mayor and City Council Members

SUBJECT: Acquisition of Vacant Parcel Adjacent to 9818 East Kellogg for the Kellogg/Webb Road Interchange Project (District II)

INITIATED BY: Office of Property Management

AGENDA: Consent

Recommendation: Accept the donation.

Background: A strip of vacant land approximately 18.6 feet wide is located between the City owned parcel at 9818 East Kellogg and the ingress/egress ramp to the Kansas Turnpike (Interstate Highway 35) on the north side of Kellogg. This strip will be required for the improvement of Kellogg at the Turnpike interchange and Webb Road.

Analysis: The strip is approximately 18.6 feet wide and 549.2 feet long and contains 10,237 square feet. The County value for tax purposes is \$5,100. It is zoned light commercial. The current owner has agreed to donate the parcel to the City.

Financial Considerations: There is no cost to the City associated with this donation.

Goal Impact: Ensure efficient infrastructure by developing and maintaining dependable infrastructure.

Legal Considerations: The Law Department has approved the deed as to form.

Recommendation/Action: It is recommended that the City Council accept the donation and authorize all necessary signatures.

Attachments: Aerial map and acquisition deed.

**City of Wichita
City Council Meeting
July 22, 2008**

TO: Mayor and City Council

SUBJECT: Settlement of Lawsuit

INITIATED BY: Law Department

AGENDA: Consent

Recommendation: Authorize payment of \$12,000.00 as a full settlement of all possible claims arising out of employment with the City.

Background: Plaintiff, a former employee, claims that the city interfered with his right to Family Medical Leave; he also claims that he was discriminated against due to a disability.

Analysis: After investigating the claims asserted in the lawsuit, evaluating facts, and considering the risks of trial, the City determined that a resolution of this matter was appropriate. After some discussion, the City has been offered an opportunity to resolve the claim with a lump sum payment of \$12,000.00 as full settlement of all claims arising out of the plaintiff's employment. Because of the risks associated with litigation, the Law Department recommends acceptance of the offer.

Financial Considerations: Funding for this settlement payment is from the City's Tort Liability Fund.

Goal Impact: Internal Perspective and management of the City .

Legal Considerations: The Law Department recommends acceptance of the offer of settlement and is initiating this item before the City Council

Recommendations/Actions: Authorize payment of \$12,000.00 as a full settlement of all possible claims arising out of the plaintiff's employment.

City of Wichita
City Council Meeting
July 22, 2008

TO: Mayor and City Council

SUBJECT: Water Treatment Plant Taste and Odor Control Improvements

INITIATED BY: Wichita Water Utilities

AGENDA: Consent

Recommendation: Approve the Agreement with MKEC Engineering Consultants, Inc.

Background: City Council approved selecting an engineering firm for design services to design improvements for the water treatment plant to eliminate the final source of taste and odor complaints on February 4, 2003. A design services contract for the first phase of the design with MKEC was approved on June 3, 2003.

Analysis: When taste and odor problems began occurring in the early 1990s, several sources were identified. Algae blooms at Cheney Reservoir were identified as a significant source of taste and odor; however, another major source was traced to residuals created at the water treatment plant.

Treatment basins are cleaned twice a year and the residuals are removed from the basins. Improvements were constructed in 1995 that significantly reduced the amount of residuals to be removed when basins were cleaned, but the residuals handling facilities were not improved.

This project consists of reconstruction of a portion of the residuals handling facility, new pumps and a new force main to transfer residual treatment plant solids from the water treatment plant to existing lagoons at 29th Street North and West Street. This is the last phase of this project and includes final design, construction phase services and inspection.

Financial Consideration: The Agreement includes \$198,000 for engineering design services, \$165,000 for Construction Phase Services and \$120,000 for Inspection Services. The total amount is \$483,000. The estimated cost for the project is \$5,000,000. Funding is available in CIP W-909, Taste and Odor Remediation.

Goal Impact: The project will help ensure efficient infrastructure by optimizing the existing facilities at the Water Treatment Plant.

Legal Considerations: The Agreement has been reviewed and approved as to form by the Law Department.

Recommendations/Actions: It is recommended that the City Council approve the Agreement and authorize the necessary signatures.

Attachments: Agreement with MKEC Engineering.

City of Wichita
City Council Meeting
July 22, 2008

TO: Mayor and City Council

SUBJECT: Abatement of Dangerous & Unsafe Structures (Districts I, III, IV and VI)

INITIATED BY: Office of Central Inspection

AGENDA: Consent

Recommendation: Approve the assessments and ordinances.

Background: The Office of Central Inspection (OCI) supports neighborhood maintenance and improvement through abatement of public nuisances under Titles 18 and 20 of the City Code. State law and local ordinances allow the City to demolish or board up and secure private property that is in violation of Housing and Building Code standards, after proper notification of the responsible party/parties. A private contractor or City staff performs the work, and the Office of Central Inspection bills the cost to the property owner.

Analysis: State law and City ordinance allow placement of the demolition and board-up costs as a special property tax assessment if the property owner does not pay. Payment has not been received for the demolition and board up abatements in question, and OCI is requesting permission for the Department of Finance to process the necessary special assessments.

Financial Considerations: Statements of Charges will be mailed to the property owners on August 8, 2008. The property owners have 30 days from date of statement to pay their assessment and avoid paying interest. The interest added to the principal amount will be determined by the rate at which the summer 2008 bonds sell. The principal and interest will then be spread for one year and placed on the 2008 tax roll.

Goal Impact: On January 24, 2006 the City Council adopted five (5) goals for the City of Wichita. These include: Provide a Safe and Secure Community, Promote Economic Vitality and Affordable Living, Ensure Efficient Infrastructure, Enhance Quality of Life, and Support a Dynamic Core Area & Vibrant Neighborhoods. This agenda item impacts the goal indicator to Support a Dynamic Core Area and Vibrant Neighborhoods: Continued revitalization of the Core Area. Dangerous building condemnation actions, including demolitions and emergency property board-ups, remove blighting and unsafe buildings that are detrimental to Wichita neighborhoods.

Legal Considerations: The assessments are in accordance with City Code 18.16.070, 18.16.080 and 18.16.090.

Recommendations/Actions: It is recommended that the City Council approve the proposed assessments and place the ordinances on first reading.

Attachments: Property List – Special Assessments

| <u>Property List</u> | <u>Office of Central Inspection</u> | <u>Amount</u> | <u>District #</u> |
|----------------------------|-------------------------------------|---------------|-------------------|
| 1437 S Wichita | demolition (condemnation) | \$4,089.91 | I |
| 1014 N Indiana | demolition (condemnation) | \$5,338.00 | I |
| 1326 N. Erie | gas services removal | \$355.27 | I |
| 2535 N. Chautauqua | gas services removal | \$785.83 | I |
| 1248 N Green (accessory) | demolition (condemnation) | \$1,576.00 | I |
| 515 N Poplar | demolition (condemnation) | \$7,858.00 | I |
| 1116 N Mathewson | demolition (condemnation) | \$7,065.00 | I |
| 1421 N Grove | demolition (condemnation) | \$7,905.00 | I |
| 1735 N Green | demolition (condemnation) | \$8,628.00 | I |
| 1309 N Indiana | demolition (condemnation) | \$5,367.00 | I |
| 1230 N Grove | demolition (condemnation) | \$8,698.00 | I |
| 1413 E 9 th St. | demolition (condemnation) | \$1,738.20 | I |
| 1641 N Pennsylvania | demolition (condemnation) | \$299.00 | I |
| 1309 N. Indiana | gas services removal | \$355.27 | I |
| 1116 N. Mathewson | gas services removal | \$355.27 | I |
| 1230 N. Grove | gas services removal | \$355.27 | I |
| 2612 E. 13 th | gas services removal | \$1,652.29 | I |
| 937 N. Indiana | gas services removal | \$355.27 | I |
| 1014 N. Indiana | gas services removal | \$566.95 | I |
| 2034 N. Waco | gas services removal | \$355.27 | VI |
| 1421 N. Grove | gas services removal | \$355.27 | I |
| 1735 N. Green | gas services removal | \$355.27 | I |
| 708 N Minneapolis | emergency board-up | \$672.40 | I |
| 1036 N Minnesota | emergency board-up | \$180.00 | I |
| 1209 N Jackson | emergency board-up | \$175.62 | VI |
| 719 E Boston | emergency board-up | \$149.99 | I |
| 1719 S Sedgwick | emergency board-up | \$134.76 | IV |
| 1226 N Lorraine | emergency board-up | \$152.03 | I |
| 1209 N Jackson (front) | emergency board-up | \$134.74 | VI |
| 1037 S Millwood | emergency board-up | \$187.93 | IV |
| 1238 N Green | emergency board-up | \$170.76 | I |
| 2409 S Handley | emergency board-up | \$246.10 | IV |
| 708 N Minneapolis | emergency board-up | \$217.96 | I |
| 2425 S Mosley | emergency board-up | \$174.59 | III |
| 4953 E Morris | emergency board-up | \$171.31 | III |
| 1010 E 8 th | emergency board-up | \$175.18 | I |
| 1534 S St. Francis | emergency board-up | \$251.37 | I |
| 1816 N Grove | emergency board-up | \$307.07 | I |
| 1701 N Lorraine | emergency board-up | \$140.26 | I |
| 227 N Hydraulic | emergency board-up | \$148.48 | I |
| 4911 E Elm | emergency board-up | \$127.98 | I |
| 820 S Topeka | emergency board-up | \$179.70 | I |
| 934 S Emporia | emergency board-up | \$170.58 | I |
| 719 E Boston | emergency board-up | \$109.65 | I |
| 2330 S Hydraulic | emergency board-up | \$210.62 | III |
| 1301 N Indiana | emergency board-up | \$293.92 | I |
| 607 N Ash | emergency board-up | \$143.54 | I |
| 845 N Harding | emergency board-up | \$174.77 | I |
| 824 S Topeka | emergency board-up | \$309.00 | I |

| | | | |
|-------------------------|--------------------|----------|-----|
| 921 N Grove | emergency board-up | \$190.08 | I |
| 2011 E 21 st | emergency board-up | \$138.69 | I |
| 2336 E Murdock | emergency board-up | \$194.52 | I |
| 115 S Exposition | emergency board-up | \$146.30 | IV |
| 2540 N Fairview | emergency board-up | \$225.52 | VI |
| 1829 E Mona | emergency board-up | \$126.36 | III |
| 832 S Topeka | emergency board-up | \$177.44 | I |
| 1449 ½ S Waco | emergency board-up | \$163.50 | I |
| 1745 N Erie | emergency board-up | \$207.23 | I |
| 2116 S Broadway | emergency board-up | \$144.63 | III |
| 2117 S Topeka | emergency board-up | \$123.03 | III |
| 719 E Boston | emergency board-up | \$192.57 | I |

____ Published in the Wichita Eagle on August 8, 2008

-ORDINANCE NO. _____

AN ORDINANCE MAKING A SPECIAL ASSESSMENT TO PAY FOR THE REMOVAL OF CERTAIN STRUCTURES, BEING DANGEROUS AND UNSAFE BUILDINGS WHICH HAVE BEEN DECLARED A NUISANCE **(BUILDING CONDEMNATION-DEMOLITION)** UNDER THE ROVISION OF SECTIONS 18.16.010 TO 18.16.090 OF THE CODE OF THE CITY OF WICHITA, KANSAS

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS:

SECTION 1. That the sum set opposite the following lots, herein specified, be and the same is hereby levied to pay the cost of removal of certain structures, being dangerous and unsafe buildings which have been declared a nuisance under the provisions of Sections 18.16.010 to 18.16.090 of the Code of the City of Wichita, Kansas, located and situated upon the following described property:

| LEGAL OF PARCEL IN BENEFIT DISTRICT | ASSESSMENT |
|--|------------|
| LOT 20 & N 16 FT LOT 22 BLOCK 2 AVONDALE ADD. | 355.27 |
| LOTS 30-32-34 WICHITA ST. FITZGERALD'S 2ND. ADD. | 4,089.91 |
| W 3 FT LOT 16 ALL OF LOTS 17-18 FRISCO NOW 9TH ST. TILFORD'S 2ND. ADD. | 1,738.20 |
| LOTS 17-19 MOORE'S 2ND. ADD. | 355.27 |
| LOTS 57-59 ALLEN NOW MATHEWSON AVE. GETTO'S ADD. | 7,065.00 |

| | |
|---|----------|
| LOTS 57-59 ALLEN NOW MATHEWSON AVE. GETTO'S ADD. | 355.27 |
| LOT 41 & N 8 1/3 FT LOT 43 INDIANA AVE. BURLEIGH'S 3RD. ADD. | 5,367.00 |
| LOT 41 & N 8 1/3 FT LOT 43 INDIANA AVE. BURLEIGH'S 3RD. ADD. | 355.27 |
| LOT 6 & N 15 FT LOT 8 VREELANDS ADD. | 5,338.00 |
| LOT 6 & N 15 FT LOT 8 VREELANDS ADD. | 566.95 |
| LOT 52 EXC S 5 FT & 1/2 VAC ALLEY ADJ ON N PENNSYLVANIA AVE. VAC SPRING GROVE 2ND. ADD. | 299.00 |
| S 1/2 LOT 169-ALL LOT 171 GROVE ST LOGAN ADD | 7,905.00 |
| S 1/2 LOT 169-ALL LOT 171 GROVE ST LOGAN ADD | 355.27 |
| LOTS 1-3 MONA NOW POPLAR ST. MOSSMAN'S 2ND. ADD. | 7,858.00 |
| LOTS 70-72-74 TYLER NOW GROVE FAIRMOUNT PARK ADD. | 8,698.00 |

| | |
|---|----------|
| LOTS 70-72-74 TYLER NOW GROVE FAIRMOUNT PARK ADD. | 355.27 |
| LOTS 54-56 GREEN ST. FAIRMOUNT PARK ADD. | 1,576.00 |
| LOTS 26-28 MT. VERNON NOW ERIE AVE. FAIRMOUNT PARK ADD. | 355.27 |
| W 1/2 LOTS 41-43-45-47 ESTELLE AVE. ROSE HILL ADD. | 1,652.29 |
| LOTS 23-25 WALTER MORRIS & SON'S 4TH. ADD. | 8,628.00 |
| LOTS 23-25 WALTER MORRIS & SON'S 4TH. ADD. | 355.27 |
| LOT 6 BLOCK J AUDREY MATLOCK HEIGHTS 1ST. ADD. | 785.83 |

SECTION 2. The sum so assessed and apportioned against the lots herein before set out and not paid within 30 days from date of notice sent out by the Debt Management Office of the Department of Finance as provided by law, shall be collected by special assessment upon the property liable therefore in one installment and placed upon the tax roll for the year **2008** and shall be certified to the County Clerk and shall be levied and collected in the same manner as other taxes, and the Debt Management Office of the Department of Finance is hereby directed to give written notice to property owner(s) owning property assessed herein, as required by law.

SECTION 3. This ordinance shall take effect and be in force from and after its publication once in the official City paper.

ADOPTED, at Wichita, Kansas, this **5h day of August, 2008.**

Carl Brewer, Mayor

ATTEST:

Karen Sublett, City Clerk

(SEAL)

Approved as to form

Gary E. Rebenstorf, Director of Law

____ Published in the Wichita Eagle on August 8, 2008

ORDINANCE NO. _____

AN ORDINANCE MAKING A SPECIAL ASSESSMENT TO PAY FOR THE REMOVAL OF CERTAIN STRUCTURES, BEING DANGEROUS AND UNSAFE BUILDINGS WHICH HAVE BEEN DECLARED A NUISANCE **(BUILDING EMERGENCY BOARD-UP)** UNDER THE PROVISION OF SECTIONS 18.16.010 TO 18.16.090 OF THE CODE OF THE CITY OF WICHITA, KANSAS

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS:

SECTION 1. That the sum set opposite the following lots, herein specified, be and the same is hereby levied to pay the cost of removal of certain structures, being dangerous and unsafe buildings which have been declared a nuisance under the provisions of Sections 18.16.010 to 18.16.090 of the Code of the City of Wichita, Kansas, located and situated upon the following described property:

| LEGAL OF PARCEL IN BENEFIT DISTRICT | ASSESSMENT |
|--|------------|
| LOTS 1110-1112 JACKSON ST. LEWELLEN'S 3RD. ADD. | 175.62 |
| LOTS 1110-1112 JACKSON ST. LEWELLEN'S 3RD. ADD. | 134.74 |
| S 1/2 LOT 38-ALL LOT 40 WACO AVE. FITZGERALD'S 2ND. ADD. | 163.50 |
| LOTS 8-9 SUNFLOWER ADD. | 225.52 |
| LOT 14 HYDRAULIC AVE. MATHEWSON'S 4TH. ADD. | 148.48 |

| | |
|---|--------|
| S 23 FT LOT 16-ALL LOT 18 EXC E 8 FT TO CITY MINNEAPOLIS AVE. OAKLAND ADD. | 672.40 |
| S 23 FT LOT 16-ALL LOT 18 EXC E 8 FT TO CITY MINNEAPOLIS AVE. OAKLAND ADD. | 217.96 |
| LOTS 45-47 WABASH AVE. MOORE'S ADD. | 175.18 |
| S 8 1/3 FT LOT 45 - ALL LOT 47 CHERRY NOW INDIANA AVE. BURLEIGH'S 3RD. ADD. | 293.92 |
| LOTS 54-56 BLOCK 7 ORME & PHILLIP'S ADD. | 179.70 |
| LOTS 58-60-62-64 BLOCK 7 ORME & PHILLIPS ADD. | 309.00 |
| LOTS 58-60-62-64 BLOCK 7 ORME & PHILLIPS ADD. | 177.44 |
| S 17 FT LOT 100 & N 16 2/3 FT LOT 102 BLOCK 13 ORME & PHILLIPS ADD. | 170.58 |
| LOT 29 COTTAGE PARK ADD. | 149.99 |
| LOT 29 COTTAGE PARK ADD. | 109.65 |

| | |
|---|--------|
| LOT 29 COTTAGE PARK ADD. | 192.57 |
| S 50 FT LOT 36 ZIMMERLY'S ADD. | 251.37 |
| LOTS 13-15 LAWRENCE AVE FARNUM'S SUB | 144.63 |
| LOTS 14-16 TOPEKA AVE FARNUM'S SUB. | 123.03 |
| LOT 5 BLOCK 2 PURCELL'S 3RD. ADD. | 174.59 |
| LOTS 37-39 ASH ST. STITES BROS. 2ND. ADD. | 143.54 |
| LOTS 14-16-18 ROGERS NOW MINNESOTA AVE. ROGER'S SUB OF TARLTON'S ADD. | 180.00 |
| EVEN LOTS 2 THRU 12 ON MINNESOTA AVE & ODD LOTS 1 THRU 23 ON PIATT AVE EXC N 10 FT FOR ST. PARKVIEW ADD. | 138.69 |
| LOTS 66-68 GREEN ST. FAIRMOUNT PARK ADD. | 170.76 |
| LOTS 74-76 LORRAINE AVE. FAIRMOUNT PARK ADD. | 152.03 |

| | |
|--|--------|
| LOTS 83-85 MT. VERNON NOW ERIE AVE. WOODRIDGE PLACE ADD. | 207.23 |
| LOTS 49-51 LORRAINE AVE. WOODRIDGE PLACE ADD. | 140.26 |
| LOTS 33-35 BLOCK 8 WESTMORELAND ADD. | 307.07 |
| LOTS 20-21 BLOCK 14 EAST HIGHLANDS ADD. | 127.98 |
| LOT 15 BLOCK 4 PARKMORE ADD. | 190.08 |
| LOT 12 BLOCK 5 PARKMORE ADD. | 194.52 |
| LOT 16 BLOCK 6 EAST HIGHLAND NORTH ADD. | 174.77 |
| LOT 4 J & G REPLAT IN EASTWOOD VILLAGE ADD. | 171.31 |
| LOT 13 EXC E 1 FT BLOCK C MONA KAY MATLOCK ADD. | 126.36 |
| LOTS 5-7-9 EXPOSITION AVE MARTINSON'S 4TH ADD | 146.30 |

| | |
|---|--------|
| LOTS 18-20 BLOCK H SOUTH UNIVERSITY PLACE ADD. | 134.76 |
| LOTS 29-31 BLOCK 6 REPLAT PART JOHN MC CORMICK'S ADD. | 187.93 |
| LOT 17 BLOCK 2 LEONARD POWELL ADD. | 246.10 |
| LOT 1 BLOCK 1 PIZZA HUT PAWNEE/HYDRAULIC ADD. | 210.62 |

SECTION 2. The sum so assessed and apportioned against the lots herein before set out and not paid within 30 days from date of notice sent out by the Debt Management Office of the Department of Finance as provided by law, shall be collected by special assessment upon the property liable therefore in one installment and placed upon the tax roll for the year **2008** and shall be certified to the County Clerk and shall be levied and collected in the same manner as other taxes, and the Debt Management Office of the Department of Finance is hereby directed to give written notice to property owner(s) owning property assessed herein, as required by law.

SECTION 3. This ordinance shall take effect and be in force from and after its publication once in the official City paper.

ADOPTED, at Wichita, Kansas, this **5th day of August, 2008.**

Carl Brewer, Mayor

ATTEST:

Karen Sublett, City Clerk

(SEAL)

Approved as to form

Gary E. Rebenstorf, Director of Law

City Of Wichita
City Council Meeting
July 22, 2008

TO: Mayor and City Council

SUBJECT: Geophysical Testing of a Sanitary Sewer Trench - Agreement
Districts I, II, III, and VI

INITIATED BY: Water Utilities

AGENDA: Consent

Recommendation: Approve the Agreement with Terracon Consulting to complete inspection, without excavation, of the soil around the 60-inch sanitary sewer pipe located under Interstate Highway 135.

Background: On February 28th, 2006, the City Council approved a project for inspection of sanitary sewer access tunnels along Interstate Highway 135. During inspections, a visible section of the pipe wall was noted to be so deteriorated that subsurface materials were being carried through the pipe and may be creating a void. Staff determined that an inspection of the site would assess whether there was an indication of structural loss of integrity in soil under the roadway.

Analysis: Requests for Proposals were issued for inspection of the soil around the sanitary sewer pipe without excavating. Responses were required to be submitted by December 18, 2007. One response was received, that being Terracon Consultants. After reviewing the response, Staff investigated to ensure the proposed methodology would be the best available for this project. Terracon Consultants has the experience, a proven history of completing this type of work and they will complete the work for a fair and reasonable fee.

Financial Considerations: The estimated cost to complete the inspection is \$49,400. Funding is available in the CIP in S-534, I-135 Pawnee to English, which has adequate funding for these services.

Goal Impact: The project will help ensure efficient infrastructure by identifying whether there is a potential problem that requires immediate attention.

Legal Considerations: The Law Department has approved the Agreement as to form.

Recommendations/Actions: It is recommended that the City Council: 1) approve the Agreement with Terracon Consultants; and 2) authorize the necessary signatures.

Attachments: Agreement with Terracon Consultants, Inc.

CONTRACT

for

PROFESSIONAL SERVICES

between

THE CITY OF WICHITA, KANSAS

and

TERRACON CONSULTANTS, INC.

THIS CONTRACT, made this _____, 2008, by and between THE CITY OF WICHITA, KANSAS, party of the first part, hereinafter called the "CITY" and TERRACON CONSULTANTS, INC. , party of the second part, hereinafter called the "CONSULTANT".

WITNESSETH:

WHEREAS the CITY seeks a firm to complete inspection, without excavation, of the soils around a sanitary sewer pipe located under Interstate Highway 135. The purpose of this inspection is to assess the site for indications, based on geophysics, of structural loss of integrity in the soil under the roadway.

; and

WHEREAS, CONSULTANT has available and offers to provide the necessary professional services to accomplish the PROJECT work within the required time; and

WHEREAS, the CITY is authorized by law to employ consultants to assist with the completion of such PROJECT.

NOW, THEREFORE, the parties hereto do mutually agree as follows:

I. SCOPE OF SERVICES

- A. The CONSULTANT shall furnish professional services as set out in Exhibit "A", which is attached hereto and incorporated herein by reference.
- B. In the event of delays in the performance by the CONSULTANT due to circumstances caused by CITY, the CONSULTANT'S schedule of performance shall be equitably adjusted to account for such delay.

II. IN ADDITION, THE CONSULTANT AGREES

- A. To provide the various technical and professional services, equipment, material and transportation to perform the tasks as outlined in Scope of Services.
- B. To make available during regular office hours at its Wichita office all records, documents and other written material as the CITY may wish to examine periodically during performance of this agreement.
- C. To save and hold CITY harmless against all suits, claims, damages and losses for injuries to persons or property to the extent arising from or caused by negligent acts, errors, or omissions of CONSULTANT, its agents, servants, employees, or subcontractors occurring in the performance of its service under this contract.
- D. To maintain books, documents, papers, accounting records and other evidence pertaining to costs incurred by CONSULTANT and, where relevant to method of payment, to make such material available at its office at reasonable times during

the contract period, and for three (3) years from the date of final payment under the contract for inspection by the CITY or its authorized representatives.

- E. To comply with all federal, state and local laws, ordinances and regulations applicable to the work, including Title VI of the Civil Rights Act of 1974, and to comply with the CITY'S Affirmative Action Program.
- F. To accept compensation for the work herein described in such amounts and at such periods as hereinafter provided and that such compensation shall be satisfactory and sufficient payment for all work performed, equipment or materials used and services rendered in connection with such work.
- G. To submit periodic billings to the CITY of the costs accrued in the performance of the services herein described.
- H. To complete the services to be performed by CONSULTANT hereunder on or before December 31, 2008.

CONSULTANT shall not be responsible for delays occasioned by the actions or inactions of the CITY or other agencies, or for other unavoidable delays beyond the control of the CONSULTANT.

- I. 1. Covenants and represents to be responsible for the professional and technical accuracies of the work or material furnished by the CONSULTANT under this agreement. CONSULTANT will perform the Services in a manner consistent with that level of care and skill ordinarily exercised by members of the profession currently practicing under similar conditions in the same locale.

2. CONSULTANT further agrees, covenants and represents that all work or material furnished by CONSULTANT, its agents, employees and subcontractors, under this agreement, including any additions, alterations or amendments thereof, shall be free from negligence.

- J. CONSULTANT shall procure and maintain Workman's Compensation and Employer's Liability Policy shall be procured and maintained. Said insurance policy shall also cover claims for injury, disease or death of employees arising out of and in the course of their employment, which, for any reason, may not fall within the provisions of the Workman's Compensation Law. The liability limit shall not be less than:

Workman's Compensation - Statutory

Employer's Liability - \$100,000.00 each occurrence

Further, a comprehensive general liability policy shall be procured and maintained by the CONSULTANT that shall be written in a comprehensive form and shall protect CONSULTANT against all claims arising from injuries to persons (other than CONSULTANT'S employees) or damage to property of the CITY or others arising out of any negligent act or omission of CONSULTANT, its agents, officers, employees or subcontractors in the performance of CONSULTANT services under this agreement. The liability limit shall not be less than \$500,000.00 per occurrence for bodily injury, death and property damage. Satisfactory Certificates of Insurance shall be filed with the CITY prior to the time

CONSULTANT starts any work under this agreement. The CONSULTANT shall furnish the CITY copies of all certificates of insurance that relate to the insurance that relate to the insurance policies that must be maintained hereunder. In addition, insurance policies applicable hereto shall contain a provision that provides that the CITY shall be given thirty (30) days written notice by the insurance company before such policy is substantially changed or canceled.

III. THE CITY AGREES:

- A. To furnish all available information and data pertaining to the PROJECT now in the CITY'S possession and CONSULTANT may rely on such information and data as accurate without having to take steps to verify the same.
- B. To pay the CONSULTANT for its services in accordance with the requirements of this agreement.
- C. To provide right of entry for CONSULTANT'S personnel in performing the services hereunder.

IV. **PAYMENT PROVISIONS**

- A. Payment to the CONSULTANT for the performance of its services shall be based on the actual hours of work performed and on the schedule of fees set out in Exhibit "B", which is attached hereto and incorporated herein by reference. In no event will the total of all payments to CONSULTANT hereunder exceed the sum of \$50,000.00.
- B. If additional work should be necessary, by virtue of a major change in the scope of the proposed PROJECT, the CONSULTANT will be given written notice by the CITY along with a request for an estimate of the actual costs plus a fixed fee for profit for performance of such additions; but no additional work shall be performed nor shall additional compensation be paid except on the basis of a Supplemental Agreement duly entered into by the parties.

V. **THE PARTIES HERETO MUTUALLY AGREE:**

- A. That the right is reserved to the CITY to terminate this agreement at any time, upon written notice, in the event the PROJECT is to be abandoned or indefinitely postponed, or because of the CONSULTANT'S inability to proceed with the work, or because the services of the CONSULTANT are unsatisfactory; PROVIDED, however, that in any case the CONSULTANT shall be paid the reasonable value of the services rendered up to the time of termination on the basis of the provisions of this agreement, but in no case shall payment be more than the CONSULTANT'S actual costs plus a reasonable sum for fixed fee for profit.
- B. That the services to be performed by the CONSULTANT under the terms of this

agreement are personal and cannot be assigned, sublet or transferred without specific consent of the CITY.

- C. In the event of unavoidable delays in the progress of the work contemplated by this agreement, reasonable extensions in the time allotted for the work will be granted by the CITY, provided, however, that the CONSULTANT shall request extensions in writing giving the reasons therefor.
- D. It is further agreed that this agreement and all contracts entered into under the provisions of this agreement shall be binding upon the parties hereto and their successors and assigns.
- E. Neither the CITY'S review, approval or acceptance or, nor payment for, any of the work or services required to be performed by the CONSULTANT under this agreement shall be construed to operate as a waiver of any right under this agreement or any cause of action arising out of the performance of this agreement.
- F. The rights and remedies of the CITY provided for under this Agreement are in addition to any other rights and remedies provided by law.
- G. It is specifically agreed between the parties executing this contract, that it is not intended by any of the provisions of any part of this contract to create the public or any member thereof a third-party beneficiary hereunder, or to authorize anyone not a party to this contract to maintain a suit for damages pursuant to the terms or provisions of this contract.
- E. Neither party shall be liable to the other for loss of profits or revenue; loss of use or opportunity; loss of good will; cost of substitute facilities, goods, or services; cost of capital; or for any special, consequential, indirect, punitive, or exemplary damages.
- F. CONSULTANT will be responsible for supervision and site safety measures for its own employees, but shall not be responsible for the supervision or health and safety precautions for any third parties, including CITY's contractors, subcontractors, or other parties present at the site.

IN WITNESS WHEREOF, the CITY and the CONSULTANT have executed this agreement
as of the date first above written.

CITY OF WICHITA, KANSAS

BY _____
Melinda Walker, Purchasing Manager

ATTEST:

Karen Sublett
City Clerk

Approved as to Form:

Gary E. Rebenstorf
Director of Law

[Consultant]

BY _____
Signature

Print Name

Title (President or Corporate Officer)

ATTEST:

Exhibit “A”

Scope of Services:

All services shall be provided pursuant to CONSULTANT proposal dated December 17, 2007.

Task 1-Project Mobilization

- CONSULTANT will prepare a Project Work Plan, including quality management and safety plans.
- Within one week of formal notice to proceed, CONSULTANT will conduct a pre-project meeting with CITY staff to discuss Project Work Plan, deliverables, and schedule
- CONSULTANT will obtain required approvals and permits from the Kansas Department of Transportation (KDOT). CONSULTANT will coordinate traffic control consistent with City and KDOT best practices. Work will be planned at night and limited in area to minimize disruptions to the normal flow of traffic.

Task 2-Field Survey

- CONSULTANT will conduct a minimum of nine (9) multichannel analysis of surface waves (MASW) seismic lines, arrayed in a 3 x 3 grid, and centered on CITY's manhole identified 5645-005. Each seismic line will consist of 24 geophones with spacing which may range from 1 to 10 feet, depending on actual field conditions. CONSULTANT will conduct further testing using at least one additional seismic array (such as a 4 x 6 grid) in an attempt to further optimize data collection for site specific conditions.
- All seismic stations will be located using a cloth-tape and/or survey wheel. Right angles will be estimated. The grid system will use the manhole inspection tunnel opening as the reference point.
- If site specific seismic conditions allow, CONSULTANT will conduct at least one p-wave refraction profile to compute material properties such as Poissons ratio and elastic moduli.

Task 3-Geophysical Datas Analysis

- CONSULTANT will conduct data processing and analysis to provide s-wave velocity profiles for each of the MASW lines/arrays (and if conditions allow, one p-wave velocity profile).

Task 4-Reporting

- CONSULTANT will prepare a brief written draft report, summarizing the geophysical results and provide recommendations based on the geophysical data analysis.
- CONSULTANT will provide four copies of the draft report for review and comment.
- CONSULTANT will conduct a ½ day comment resolution workshop with CITY staff.
- CONSULTANT will prepare a final report and submit four paper copies and one electronic copy to the CITY.
- A location diagram will be provided with the reports.

Exhibit “A” continued

Task 5-Repeat Survey

- CONSULTANT will repeat the geophysical survey after a period of four months to

observe temporal changes in subsurface conditions. The repeat survey will include a pre-field briefing with CITY staff, acquisition of approvals and permits, personnel mobilization, and a repeat of Task 2, Task 3, and Task 4 based on the additional data.

Exhibit “B”

Schedule of Fees:

| | |
|----------------------------------|--------------------|
| Task 1-Mobilization | \$ 7,000.00 |
| Task 2-Field Survey | \$11,500.00 |
| Task 3-Geophysical Data Analysis | \$ 2,200.00 |
| Task 4-Reporting | \$ 5,400.00 |
| <u>Task 5-Repeat Survey</u> | <u>\$23,300.00</u> |
| Total Cost | \$49,400.00 |

It is understood that this Schedule of Fees is based on the following assumptions:

- Legal and physical access to the site is provided by KDOT and CITY
- CITY comments to the work plan and/or report take less than 2 labor hours to address.
- The field survey can be accomplished in three (3) nights.

CONTRACT FOR IMPLEMENTATION OF A WIRELESS COMMUNICATION NETWORK

THIS CONTRACT, by and between the **CITY OF WICHITA, KANSAS**, a municipal corporation, hereinafter called "**CITY**", and **ELECTRONIC TECHNOLOGY, INC.**, a Kansas corporation, headquartered in Merriam, KS, hereinafter called "**ETI**", shall become effective the date of the last required signature.

WITNESSETH:

WHEREAS, the **CITY** has solicited proposal for FR800044; and

WHEREAS, **ETI** has submitted the proposal most beneficial to the **CITY** and is ready, willing, and able to provide the commodities and/or services required by the **CITY**.

NOW, THEREFORE, the parties hereto agree as follows:

1. Scope of Services.

a. **ETI** shall provide to the **CITY** all those commodities and/or services specified in its response to Formal Proposal Number – FP800044, which is incorporated herein by this reference the same as if it were fully set forth. The proposal package, as per the proposal, plans, specifications, addenda as part of the proposal letting process for Formal Proposal – FP800044 and **ETI** proposal response, dated May 15, 2008, and as approved by the City Council on July 22, 2008, shall be considered a part of this contract and is incorporated by reference herein.

b. **ETI** acknowledges receipt of the specifications, plans and addenda, and is in agreement to abide by their terms as the controlling relationship of the parties to this Contract, except as may be hereafter amended by any subsequent written agreement between the **CITY** and **ETI**.

c. **ETI** shall schedule a Kickoff Meeting within twenty-one (21) days of the signing of this Contract. Immediately following the Kickoff Meeting for this project, the **CITY** and **ETI** shall schedule an initial meeting to discuss the intended design and installation schedule of the resulting wireless network. Specific topics to be discussed in the meeting will entail the installation scheduling (facility and traffic signals), work planning, federal requirements, equipment procurement, network structure, network design (routing, quality of service, subnetting and IP schema), bandwidth, testing procedures, acceptance plans, system monitoring, user training, system maintenance, unit pricing (see section 2a), performance bond (see section 10) and warranties. The results of this meeting shall be drafted as an addendum to this Contract and require the signature of the **CITY** and **ETI**.

d. Due to the intent of the project to provide network connectivity to **CITY** facilities and structures and **CITY** traffic signal system, each goal of the project may require a separate meeting with **ETI**.

e. The **CITY** is aware that dates established at the initial meeting for the installation schedule will be made on the best assessment of the **CITY** and on the basis of **ETI** and **ETI** partners and/or subcontractors qualifications which represent their experience as a professional engineering firms, familiar with the communication industry. The **CITY** is also aware that these projected dates will be an estimated date and not a guarantee the services will be completed by that date.

f. The **CITY** has listed herein a register of facilities desired to be the initial implementations for the data network (Exhibit A). The scheduling of these implementations will be discussed with **ETI** during the initial meeting following the Kickoff Meeting.

g. Based on available project budget the **CITY** will request **ETI** to perform, provide or furnish a wireless communication network connection to a site, or collection of site locations. Each installation of a site or collection of sites, shall require a written Agreement, approved and authorized by the **CITY** and **ETI**. Unless an Agreement, which shall entail Scope of Service, General Terms and Conditions, Unit Pricing, Compensation, and Performance Bond is authorized, by both the **CITY** and **ETI**, the **CITY** shall not be responsible for any form of payment to **ETI** and **ETI** shall not be required to perform, provide or furnish any Additional Services. Compensation to **ETI** for all authorized Additional Services shall follow the same process as established under Section 2 of this Contract.

h. In the proposal response submitted by **ETI** on May 15, 2008, **ETI** indicated a preference of utilizing Alvarion equipment for the project. All services performed by **ETI** and any **ETI** subcontractors, regarding the installation of all incidental equipment, connections, cabling, mountings, cabinets and all other equipment, shall comply with all grounding and suppression system for the protection of Alvarion products as referenced in the Alvarion Lightning Protection White Paper (October 2005).

i. **ETI** shall perform all services in conformity with all Wichita-Sedgwick County, State and Federal design criteria appropriate for the work involved with this project.

j. In case of conflict regarding any term or condition, among these documents, those listed in the **CITY** RFQ shall take precedence.

2. Compensation.

a. **CITY** desires to pay **ETI** on a negotiated "Unit Price" (UP) basis. The UP shall be agreed upon by the **CITY** and **ETI** during the initial following the Kickoff Meeting for this project. It is the desire of the **CITY** that the UP include furnishing of all incidental lump sum and hourly rates of associated personnel, equipment, connections, cabling, mountings, cabinets and all other equipment or tools and appurtenances needed to

complete, integrate and optimize the communication signal and throughput and test the connection through the **CITY** network at each site.

b. Should a site location require less equipment, time, etc., than established under the UP, **ETI** will adjust the cost of the installation accordingly.

c. **ETI** shall submit monthly statements for the provision of the services to the **CITY**. The statements will be based upon an agreed estimate, between **ETI** and the **CITY**, of the portion of the total services actually completed at the time of billing.

d. The **CITY** is exempt from the payment of City, State of Kansas and Federal taxes. Taxes shall not be included in any pricing.

e. During the life of the project and for a period of four (4) years following final acceptance of the work performed by **ETI** and **ETI** partners and subcontractors, in connection with this project or termination of this Contract, **ETI** shall retain a true and accurate set of records and information which may have an effect on or be related to this Contract or any services performed hereunder. Prior to the expiration of the four (4) year period, the **CITY** shall have access to, and shall have the right to review, copy and audit, at reasonable times and places during normal working hours, all such records and information. **ETI** shall cooperate fully with the **CITY** in conducting such reviews and audits. All audits will be conducted in accordance with professional auditing standards. **ETI** obligations under this Contract shall also be binding upon any consultants and subcontractors retained by **ETI** in the performance of the Contract. **ETI** shall insert this provision in each Contract or Agreement it develops with their consultants or subcontractors.

3. Term.

a. The term of this contract shall remain in effect until the time at which **ETI** has fulfilled the requirements hereof, to the approval of the **CITY**.

b. Both the **CITY** and **ETI** agree to conduct regularly scheduled project meetings to keep each advised of the completed work in relation to the estimated schedule. Should it become evident that the estimated date of completion will not be viable during the project meetings, both the **CITY** and **ETI** agree to revise the estimated dates to provide a more amenable schedule. Such changes to schedule shall be in writing and approved by the **CITY** and **ETI**

c. This contract is subject to cancellation by the **CITY**, at its discretion at any time within the original contract term or within any successive renewal, upon thirty (30) days written notice to **ETI**. **ETI** shall be provided a reasonable time within which to remedy such deficiencies. **ETI** shall be entitled to receive just and equitable compensation for any satisfactory work completed prior to the effective date of such termination.

d. **ETI** may terminate this Contract at any time for failure of the **CITY** to comply with any material terms or conditions of the Contract, effective thirty (30) days following receipt. The **CITY** shall be provided a reasonable time within which to remedy such deficiencies.

4. Project Documents. All documents, drawings, specifications, sketches, studies, analysis, information, schedules, estimates, reports and other items prepared or furnished by the **CITY** or **CITY** contractors or subcontractors and/or **ETI** and **ETI** partners or subcontractors pursuant to this Contract are instruments of service delivered in respect to this Contract and that the **CITY** and **ETI** shall retain an ownership and property interest therein. Any reuse of documents during the life of the project, provided by either the **CITY** or **CITY** contractors or subcontractors or **ETI** and **ETI** partners and subcontractors, shall first receive written approval by the **CITY** and **ETI**.

5. Change to Contract. It is the desire of both the **CITY** and **ETI** to keep the performance of this Contract according to the terms set herein, but both parties to this Contract realize that changes may become necessary. It is also the desire of the **CITY** and **ETI** to keep any changes to a minimum. The **CITY** may suggest deletions, modifications or changes to this Contract by advising **ETI** in writing of the change believed to be necessary or desired. As soon thereafter as practicable, **ETI** shall provide the **CITY** a response applicable to such requested change. If the **CITY** and **ETI** are in agreement to the change, a written amendment to this Contract shall be executed by the **CITY** and **ETI**. **ETI** shall then perform the change in services. **ETI** may initiate changes to the Contract by advising the **CITY** in writing, that in its professional opinion, a change is necessary. If the **CITY** approves the advised change, it shall confer to **ETI**, in writing. If the advised change is not approved by the **CITY**, or if a written and agreed Contract amendment is not executed, the change shall not become effective and **ETI** shall not be obligated to perform the change.

6. CITY Responsibilities.

a. The **CITY** shall designate a person to act as the **CITY** representative with respect to the Services to be rendered by **ETI** under this Contract. Such person shall have complete authority to transmit instructions, receive information, interpret and define the **CITY** policies and decisions with respect to **ETI** delivery of the Initial Plan, Changed or Additional services for this Contract.

b. The **CITY** shall provide all available information pertinent to the performance of the services of this Contract. The **CITY** agrees that **ETI** shall be entitled to rely upon the accuracy and completeness of all such information.

c. The **CITY** shall arrange for access to and make all provisions for **ETI** to enter upon public and private property as required for **ETI** to perform services under this Contract.

d. The **CITY** shall examine all studies, reports, sketches, drawings, specification, proposals and other documents presented by **ETI**, obtain the advice of legal and insurance counsel as the **CITY** deems appropriate for such examination and render in writing decisions pertaining thereto within a reasonable time so as not to delay the delivery of services by **ETI**.

e. The **CITY** shall give written and prompt notice to **ETI** whenever the **CITY** observes or otherwise becomes aware of any development that affects the delivery of services by **ETI** in either Scope or Scheduling, or any defect or non-conformance in the delivery of services by **ETI** and **ETI** partners and subcontractors, or in the work of any contractor or other party performing or providing work or services in connection with the project. The **CITY** shall further agree to impose a similar notification requirement on all contractors providing work or services in connection with this project. Failure by the **CITY**, or the **CITY** contractors or subcontractors to notify **ETI** shall relieve **ETI** of the costs of remedying the defects above the sum such remedy would have cost had prompt notification been given when such defects were first discovered.

8. ETI Responsibilities.

a. **ETI** shall designate a person to act as **ETI** representative with respect to the services to be rendered for the **CITY** under this Contract. Such person shall have complete authority to transmit instructions, receive information, interpret and define **ETI** policies and decisions with respect to the delivery of the Basic, Changed or Additional services for this Contract.

b. When the **CITY** or the **CITY** contractors or subcontractors has provided prompt notice to **ETI** of a development that will affect the delivery of services in either Scope or Scheduling, or any defect or non-conformance in the delivery of services by **ETI**, and **ETI** partners or subcontractors, **ETI** shall then, in an appropriate amount of time, take measures to minimize the consequences of such notice which shall affect their delivery of services.

c. Services performed by **ETI** under this Contract will be conducted in a manner consistent with the level of care, diligence and skill ordinarily possessed and exercised by members of the profession currently practicing under similar conditions.

d. Following the successful completion of this Contract, the **CITY** grants **ETI** a non-exclusive license to use the **CITY** name and logo in **ETI** marketing materials. Should **ETI** wish to use the **CITY** name and logo as part of their marketing material during the life of the project, **ETI** shall first obtain written consent from the **CITY**.

e. **ETI** agrees to use any real property, equipment and supplies for appropriate purposes associated with this Contract.

9. Indemnification and Insurance.

a. **ETI** shall save and hold the **CITY** harmless against all suits, claims, damages and losses for injuries to persons or property arising from or caused by errors,

omissions or negligent acts of **ETI**, its officers, agents, servants, or employees, occurring in the performance of its services under this Contract, or arising from any defect in the materials or workmanship of any product provided in the performance of this Contract.

b. **ETI** will carry insurance coverage during the term of this contract and any extensions thereof in the amounts and manner provided as follows:

1. Comprehensive General Liability covering premises—operations, xcu (explosion, collapse and underground) hazards when applicable, Product/Completed operations, Broad Form Property Damage, and Contractual Liability with minimum limits as follows:

| | |
|---|---|
| Bodily Injury Liability | \$500,000 each occurrence \$500,000 each aggregate |
| Property Damage Liability | \$500,000 each occurrence \$500,000 each aggregate |
| Or | |
| Bodily Injury and Property Damage Liability (Combined Single Limit) | \$500,000 each occurrence \$500,000 each aggregate |

2. Automobile Liability - Comprehensive Form including all owned, hired and non-owned vehicles with minimum limits for:

| | |
|---|-------------------------|
| Bodily Injury Liability | \$500,000 each accident |
| Property Damage Liability | \$500,000 each accident |
| Or | |
| Bodily Injury and Property Damage Liability (Combined Single Limit) | \$500,000 each accident |

3. Workers' Compensation/Employers Liability for minimum limits of:

| | |
|---------------------|-------------------------|
| Employers Liability | \$100,000 each accident |
|---------------------|-------------------------|

c. The Insurance Certificate must contain the following:

1. Statement that the Contractual Liability includes the Liability of the City of Wichita assumed by the ETI in the contract documents.

2. Cancellation – should any of the above policies be canceled before the expiration date thereof the issuing company will mail ten (10) days written notice to certificate holder.

10. Performance Bond. **ETI** shall furnish a performance bond equal to the amount payable to **ETI** under each installation Agreement. **ETI** shall also furnish a material payment bond equal to the cost of materials for each Agreement. The performance bond shall list all of **ETI** obligations and liabilities under each Agreement. The bonds shall be on a form and with a surety that is satisfactory to the **CITY**. **ETI** shall deliver the bonds prior to start of any work for each Agreement. **ETI** shall require the attorney who executes the bonds on behalf of the surety to affix to the bonds a

proper, certified and current copy of the power of attorney and other appropriate evidence of the due authorization of the bonds.

11. Independent Contractor. The relationship of **ETI** to the **CITY** will be that of an independent contractor. No employee or agent of **ETI** shall be considered an employee of the **CITY**.

12. Compliance with Laws. **ETI** shall comply with all laws, statutes and ordinances which may pertain to the providing of services under this Contract.

13. No Assignment. The services to be provided by **ETI** under this Contract are personal and cannot be assigned, sublet or transferred without the specific written consent of the **CITY**.

14. Non-Discrimination. **ETI** shall comply with all applicable requirements of the **CITY** Revised Non-Discrimination and Equal Employment /Affirmative Action Program Requirements Statement for Contracts or Agreements attached hereto as Exhibit b.

15. Third Party Rights. It is specifically agreed between the parties that it is not intended by any of the provisions of any part of this Contract to create the public or any member thereof a third-party beneficiary hereunder, or to authorize anyone not a party to this Contract to maintain a suit for damages pursuant to the terms or provisions of this Contract.

16. No Arbitration. **ETI** and the **CITY** shall not be obligated to resolve any claim or dispute related to the Contract by arbitration. Any reference to arbitration in bid or proposal documents is deemed void.

17. Governing Law. This contract shall be interpreted according to the laws of the State of Kansas, USA. Venue for any dispute shall be the most appropriate court of competent jurisdiction sitting in Wichita, Kansas.

18. Representative's Authority to Contract. By signing this contract, the representative of **ETI** represents the he or she is duly authorized to execute this contract, and that **ETI** has agreed to be bound by all its provisions.

IN WITNESS WHEREOF, the parties have set their hands the day and year first above written.

The City of Wichita:

Carl Brewer, Mayor

Approved as to Form:

ATTEST:

Gary E. Rebenstorf
Director of Law

Karen Sublett
City Clerk

Date

Date

TranSystems:

Barbara Carr
President

Date

EXHIBIT A

INITIAL FACILITIES

Old Cowntown Museum

| | |
|----------------|---------------------|
| Administration | 1871 Sim Park Drive |
|----------------|---------------------|

Fire Department

| | |
|-------------------|--|
| Maintenance | 1801 S McLean Blvd |
| Station # 1 | 731 N Main |
| Station # 2 | 1240 S Broadway |
| Station # 3 | 3261 N Broadway |
| Station # 4 | 2423 Irving |
| Station # 5 | 257 N Hillside |
| Station # 6 | 1010 N 143rd St E |
| Station # 7 | 2346 N Coolidge |
| Station # 8 | 661 N Elder |
| Station # 9 | 350 S Edgemoor |
| Station # 10 | 1755 N Grove |
| Station # 11 | 1845 South George Washington Blvd |
| Station # 12 | 3443 S Meridian |
| Station # 13 | 3162 W 42nd St N |
| Station # 14 | 6408 E Farmview Lane |
| Station # 15 | 7923 E Lincoln |
| Station # 16 | 1632 N Tyler |
| Station # 17 | 10651 W Maple |
| Station # 18 | 2808 N Webb Rd |
| Station # 19 | 4440 S Broadway |
| Station # 20 | Kincaid and Greenwich (Under Construction) |
| Station #21 | !35 th St. W and 21 st St. N (Future Addition) |
| Station #22 | Denker and Hydraulic (Future Addition) |
| Training Grounds | 4780 E 31st S |
| Trng & Med Office | 731 N Main |

Park and Recreation

| | |
|------------------------------|------------------|
| Century II Convention Center | 225 West Douglas |
|------------------------------|------------------|

| | |
|--------------------------|--------------|
| Tex Consover Golf Course | 1931 S Tyler |
|--------------------------|--------------|

Police Department

| | |
|------------------|------------------|
| Communications | 1901 N Market |
| East Substation | 350 S Edgemoor |
| North Substation | 3015 E 21st St N |
| Police Academy | 2235 W 37th N |
| South Substation | 211 E Pawnee |
| West Substation | 661 N Elder |

Water and Sewer

| | |
|----------------------------|---------------------------|
| 4 Mile Creek Sewer Plant | 15800 E Harry |
| Water Filter Plant | 1815 W Pine |
| Webb Rd Pump Station | 2233 N Webb Rd |
| North Sanitary Sewer Plant | 5191 N Meridian |
| Sewer Plant I | 3100 S Grove |
| Sewer Plant II | 2305 E 57th St S |
| Northwest Sewer Plant | 4182 N 135th St W (Maize) |

EXHIBIT B

REVISED NON-DISCRIMINATION AND EQUAL EMPLOYMENT OPPORTUNITY/AFFIRMATIVE ACTION PROGRAM REQUIREMENTS STATEMENT FOR CONTRACTS OR AGREEMENTS

ETI as the Contractor

During the term of this contract, the contractor or subcontractor, Contractor or supplier of the City, by whatever term identified herein, shall comply with the following Non-Discrimination--Equal Employment Opportunity/Affirmative Action Program Requirements:

- A. During the performance of this contract, the contractor, subcontractor, Contractor or supplier of the City, or any of its agencies, shall comply with all the provisions of the Civil Rights Act of 1964, as amended: The Equal Employment Opportunity Act of 1972; Presidential Executive Orders 11246, 11375, 11131; Part 60 of Title 41 of the Code of Federal Regulations; the Age Discrimination in Employment Act of 1967; the Americans with Disabilities Act of 1990 and laws, regulations or amendments as may be promulgated thereunder.
- B. Requirements of the State of Kansas:
 - 1. The contractor shall observe the provisions of the Kansas Act against Discrimination (Kansas Statutes Annotated 44-1001, et seq.) and shall not discriminate against any person in the performance of work under the present contract because of race, religion, color, sex, disability, and age except where age is a bona fide occupational qualification, national origin or ancestry;
 - 2. In all solicitations or advertisements for employees, the contractor shall include the phrase, "Equal Opportunity Employer", or a similar phrase to be approved by the "Kansas Human Rights Commission";

3. If the contractor fails to comply with the manner in which the contractor reports to the "Kansas Human Rights Commission" in accordance with the provisions of K.S.A. 1976 Supp. 44-1031, as amended, the contractor shall be deemed to have breached this contract and it may be canceled, terminated or suspended in whole or in part by the contracting agency;
4. If the contractor is found guilty of a violation of the Kansas Act against Discrimination under a decision or order of the "Kansas Human Rights Commission" which has become final, the contractor shall be deemed to have breached the present contract, and it may be canceled, terminated or suspended in whole or in part by the contracting agency;

5. The contractor shall include the provisions of Paragraphs 1 through 4 inclusive, of this Subsection B, in every subcontract or purchase so that such provisions will be binding upon such subcontractor or Contractor.
- C. Requirements of the City of Wichita, Kansas, relating to Non-Discrimination -- Equal Employment Opportunity/Affirmative Action Program Requirements:
1. The Contractor, supplier, contractor or subcontractor shall practice Non-Discrimination -- Equal Employment Opportunity in all employment relations, including but not limited to employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. The contractor, supplier, contractor or subcontractor shall submit an Equal Employment Opportunity or Affirmative Action Program, when required, to the Department of Finance of the City of Wichita, Kansas, in accordance with the guidelines established for review and evaluation;
 2. The Contractor, supplier, contractor or subcontractor will, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, supplier, contractor or subcontractor, state that all qualified applicants will receive consideration for employment without regard to race, religion, color, sex, "disability, and age except where age is a bona fide occupational qualification", national origin or ancestry. In all solicitations or advertisements for employees the Contractor, supplier, contractor or subcontractor shall include the phrase, "Equal Opportunity Employer", or a similar phrase;
 3. The Contractor, supplier, contractor or subcontractor will furnish all information and reports required by the Department of Finance of said City for the purpose of investigation to ascertain compliance with Non-Discrimination -- Equal Employment Opportunity Requirements. If the Contractor, supplier, contractor, or subcontractor fails to comply with the manner in which he/she or it reports to the City in accordance with the provisions hereof, the Contractor, supplier, contractor or subcontractor shall be deemed to have breached the present contract, purchase order or agreement and it may be canceled, terminated or suspended in whole or in part by the City or its agency; and further Civil Rights complaints, or investigations may be referred to the State;
 4. The Contractor, supplier, contractor or subcontractor shall include the provisions of Subsections 1 through 3 inclusive, of this present section in every subcontract, subpurchase order or subagreement so that such provisions will be binding upon each subcontractor, subcontractor or subsupplier.

5. If the contractor fails to comply with the manner in which the contractor reports to the Department of Finance as stated above, the contractor shall be deemed to have breached this contract and it may be canceled, terminated or suspended in whole or in part by the contracting agency;

D. Exempted from these requirements are:

1. Those contractors, subcontractors, Contractors or suppliers who have less than four (4) employees, whose contracts, purchase orders or agreements cumulatively total less than five thousand dollars (\$5,000) during the fiscal year of said City are exempt from any further Equal Employment Opportunity or Affirmative Action Program submittal.
2. Those Contractors, suppliers, contractors or subcontractors who have already complied with the provisions set forth in this section by reason of holding a contract with the Federal government or contract involving Federal funds; provided that such contractor, subcontractor, Contractor or supplier provides written notification of a compliance review and determination of an acceptable compliance posture within a preceding forty-five (45) day period from the Federal agency involved.

**City of Wichita
City Council Meeting
July 22, 2008**

TO: Mayor and City Council

SUBJECT: City of Wichita Point-to-Point Data Network Services

INITIATED BY: IT/IS

AGENDA: Consent

Recommendation: Approve the contract for design, installation and implementation of the Point-to-Point Data Network Services with Electronic Technology, Inc.

Background: IT/IS has been encountering many instances of slow and problematic transfer rates for data with the current leased buried cable network structure. To resolve this issue, the IT/IS Department conducted research to determine the most efficient and economical method to replace the leased portion of their network.

After careful consideration of several options, it was decided to replace the leased service with a Point-to-Point (P2P) telecommunications system which is capable of providing Department Of Defense level data encryption. A distinct advantage of utilizing a P2P network is that it will provide a means for transferring large amounts of data from one antenna at fixed locations over long distances to City Hall and back.

The P2P network structure will utilize a minimum of four base access antennas located on the top of City Hall, which will be capable of receiving and sending data to any outlying structure or facility within that coverage area. Each base antenna will provide a ninety degree coverage area to its respective quadrant, eventually encompassing the City in total.

On March 18, 2008, the request was brought before the City Council, under the New Business agenda, to approve the submittal of the FFY2004 ITS Earmarked Integration Fund to FHWA, FTA and KDOT, Approve the expenditure of the FFY2004 FHWA ITS Earmarked Integration Fund; Approve expenditure of the FFY2003 FHWA ITS Demonstration Fund; Approve the expenditure of the Equipment Replacement Fund and Approve the signing of the associated Supplemental Agreement. The City Council voted to approve the recommendations, 7 to 0.

On April 16, 2008, IT/IS released an RFQ to find a qualified and financially stable communication integration company, to design and deploy a converged P2P wireless network. The purpose of which will be to integrate outlying facility data services and the upgraded traffic signal system over a single wireless transfer platform.

Due to the high technological nature of the project, a special Selection Committee was formed to review the submitted proposals. After closely scrutinizing the proposals and ranking them in a tiered review process, the Selection Committee unanimously chose Electronic Technology, Inc. (ETI), a Kansas corporation. ETI has been the primary contractor on the design and deployment of several wireless municipal data networks in the Kansas City Metro area. ETI has also been the primary contractor for the Operation Green Light (OGL) project, which has combined the traffic signal systems for 23 cities and two state transportation departments in the Kansas City Metro area.

Financial Consideration: The total amount of the funding available for the project is \$1,292,372. The FFY2004 FHWA ITS Earmarked Integration Fund requires a 100% match against the Federal amount of \$646,186. The majority of the match will be provided by the FFY2003 FHWA ITS Demonstration Fund in the amount of \$387,711. The balance and only local money involved in the project will generate from the IT/IS Equipment Replacement Fund in the amount of \$258,475.

Both the FFY2004 FHWA ITS Earmarked Integration Fund and FFY2003 FHWA ITS Demonstration Fund have been approved for expenditure on the P2P project. The FFY2004 FHWA ITS Earmarked Integration Fund requires a formal obligation process which shall commence once the attached contract has received signature.

Due to the extended period of availability for the two Federal funds, if they are not expended on the current project, the FHWA General Accounting Office will rescind them and the City of Wichita will lose the opportunity to avail them.

Goal Impact: This project addresses the Internal Perspective goal by influencing the following indicators: Improve Technology Efficiencies and Increase Productivity.

Legal Considerations: The formal project application for the FFY2004 ITS Earmarked Integration Fund, detailing expenditure upon the P2P project, has been reviewed and approved by the ITS Deployment Program Office in Washington, DC. The associated Supplemental Agreement has been reviewed and approved by all signing parties.

Recommendations: Approve the contract for design, installation and implementation of the Point-to-Point Data Network Services with Electronic Technology, Inc.

CONTRACT FOR PROJECT MANAGEMENT SERVICES FOR THE TRANSIT SERVICES INTELLIGENT TRANSPORTATION SYSTEMS PROJECT

THIS CONTRACT entered into this ____ day of _____, 2008, by and between the **CITY OF WICHITA, KANSAS**, a municipal corporation, hereinafter called "**CITY**", and "**TRANSYSTEMS**", a corporation headquartered in Kansas City, MO, hereinafter called "**TRANSYSTEMS**".

WITNESSETH:

WHEREAS, the **CITY** has solicited proposals for FP800053; and

WHEREAS, **TRANSYSTEMS** has submitted the proposal most beneficial to the **CITY** and is ready, willing, and able to provide the commodities and/or services required by the **CITY**.

NOW, THEREFORE, the parties hereto agree as follows:

1. Scope of Services. **TRANSYSTEMS** shall provide to the **CITY** all those commodities and/or services specified in its response to Formal Proposal Number – FP800053, which is incorporated herein by this reference the same as if it were fully set forth. The proposal package, including all specifications, plans and addenda, provided by the City of Wichita as part of the proposal letting process for Formal Proposal – FP800053, shall be considered a part of this Contract and is incorporated by reference herein. **TRANSYSTEMS** acknowledges receipt of the specifications, plans and addenda, and is in agreement to abide by their terms as the controlling relationship of the parties to this Contract, except as may be hereafter amended by any subsequent written agreement between the **CITY** and **TRANSYSTEMS**. The Basic Services (Services), established by the specifications, plans and addenda, are set forth in Exhibit A. **TRANSYSTEMS** agrees to use any real property, equipment and supplies for appropriate purposes associated with this Contract.

2. Compensation. **CITY** agrees to pay to **TRANSYSTEMS**, the amount of \$74,902, for the Project Management Services as identified in the Scope of Services, General Terms and Conditions, Federally Required Contract Clauses and all addenda, which are incorporated herein by reference, prior to the date of this Contract and as addressed in the Formal Proposal Number FP800053, and **TRANSYSTEMS** submitted proposal response, dated June 13, 2008, and as approved by the City Council on July 22, 2008. **TRANSYSTEMS** shall submit monthly statements for the provision of the Services to the **CITY**. The statements will be based upon an agreed estimate, between **TRANSYSTEMS** and the **CITY**, of the portion of the total services actually completed at the time of billing. In case of conflict regarding any term or condition, among these documents, those listed in the **CITY** RFP shall take precedence.

,

3. Changes to Basic Services.

a. It is the desire of both the **CITY** and **TRANSYSTEMS** to keep the performance of this Contract according to the provisions established under Section 1, but both parties to this Contract realize that changes may become necessary. It is also the desire of the **CITY** and **TRANSYSTEMS** to keep any changes to a minimum. The **CITY** may suggest deletions, modifications or changes to the services by advising **TRANSYSTEMS** in writing of the change believed to be necessary. As soon thereafter as practicable, **TRANSYSTEMS** shall prepare a cost estimate of the change and shall inform the **CITY** of the adjustment in the compensation due, either the **CITY** or **TRANSYSTEMS**. **TRANSYSTEMS** shall also provide the **CITY** a Completion Date as set forth in Section 5a, applicable to such requested change. If the **CITY** approves the change, a written amendment to this Contract shall be executed by the **CITY** and **TRANSYSTEMS**. **TRANSYSTEMS** shall then perform the Services as changed and the adjustment in Compensation, to either the **CITY** or **TRANSYSTEMS**, and/or the Completion Date set forth in the executed Contract amendment, shall become effective. **TRANSYSTEMS** may initiate changes in the Services by advising the **CITY** in writing, that in its professional opinion, a change is necessary. If the **CITY** approves the advised change, it shall confer to **TRANSYSTEMS**, in writing, and thereafter the change shall be processed as if the change was initiated by the **CITY**. If the advised change is not approved by the **CITY**, or if a written and agreed Contract amendment is not executed, the change shall not become effective and **TRANSYSTEMS** shall not be obligated to perform the change.

b. In the event that the **CITY**, the **CITY** contractors or subcontractors, or anyone for whom the **CITY** is legally liable, makes or permits to be made, any changes to any reports, plans, specifications or other documents prepared by **TRANSYSTEMS**, without obtaining **TRANSYSTEMS** written prior consent, the **CITY** agrees to assume full responsibility for the results of such changes. The **CITY** agrees to include in any contracts associated with this project appropriate language that prohibits any **CITY** contractor or subcontractor from making any changes or modifications to **TRANSYSTEMS** documents without prior written approval of **TRANSYSTEMS**.

4. Additional Services. The **CITY** may request **TRANSYSTEMS** to perform, provide, furnish or obtain from other services, work which is not a part of, or are in addition to, the Services. If an Agreement, which shall entail Scope of Service, General Terms and Conditions, and Compensation, is constructed and authorized by both the **CITY** and **TRANSYSTEMS**, **TRANSYSTEMS** shall perform, provide, furnish or obtain from others, the agreed upon Additional Services. **TRANSYSTEMS** shall not be obligated to perform, provide, furnish or obtain any Additional Services without the prior written authorization of the **CITY**. Compensation to **TRANSYSTEMS** for the Additional Services shall follow the same process as established under Section 2 of this Contract.

5. Term.

a. The term of this contract shall remain in effect until the time at which **TRANSYSTEMS** has fulfilled the requirements hereof, to the approval of the **CITY**.

b. Prior to the Kickoff Meeting for the project **TRANSYSTEMS** shall provide the **CITY** with an estimated date for the completion of Services for each phase of each desired application, per Section 3, Scope of Services of the RFP. The **CITY** is aware that these dates provided by **TRANSYSTEMS** are made on the basis of **TRANSYSTEMS** experience and qualifications and represent **TRANSYSTEMS** best judgment as an experienced and qualified professional engineer, familiar with the transportation industry, and that these projected dates will be an estimated date and not a guarantee the Services will be completed by that date.

c. Both the **CITY** and **TRANSYSTEMS** agree to conduct regularly scheduled project meetings to keep each advised of the completed work in relation to the estimated schedule. Should it become evident that the estimated date of completion will not be viable during the project meetings, both the **CITY** and **TRANSYSTEMS** agree to revise the estimated dates to provide a more amenable schedule. Such changes to schedule shall be in writing and approved by the **CITY** and **TRANSYSTEMS**.

d. This contract is subject to cancellation by the **CITY**, at its discretion at any time within the original contract term or within any successive renewal, upon thirty (30) days written notice to **TRANSYSTEMS**. **TRANSYSTEMS** shall be provided a reasonable time within which to remedy such deficiencies. **TRANSYSTEMS** shall be entitled to receive just and equitable compensation for any satisfactory work completed prior to the effective date of such termination.

e. **TRANSYSTEMS** may terminate this Contract at any time for failure of the **CITY** to comply with any material terms or conditions of the Contract, effective thirty (30) days following receipt. The **CITY** shall be provided a reasonable time within which to remedy such deficiencies.

6. CITY Responsibilities.

a. The **CITY** shall designate a person to act as the **CITY** representative with respect to the Services to be rendered by **TRANSYSTEMS** under this Contract. Such person shall have complete authority to transmit instructions, receive information, interpret and define the **CITY** policies and decisions with respect to **TRANSYSTEMS** delivery of the Basic, Amended or Changed Services for this Contract.

b. The **CITY** shall provide all available information pertinent to the performance of the Services of this Contract. The **CITY** agrees that **TRANSYSTEMS** shall be entitled to rely upon the accuracy and completeness of all such information.

c. The **CITY** shall arrange for access to and make all provisions for **TRANSYSTEMS** to enter upon public and private property as required for **TRANSYSTEMS** to perform services under this Contract.

d. The **CITY** shall examine all studies, reports, sketches, drawings, specification, proposals and other documents presented by **TRANSYSTEMS**, obtain the advice of legal

and insurance counsel as the **CITY** deems appropriate for such examination and render in writing decisions pertaining thereto within a reasonable time so as not to delay the delivery of Services by **TRANSYSTEMS**.

e. The City shall give written and prompt notice to **TRANSYSTEMS** whenever the **CITY** observes or otherwise becomes aware of any development that affects the delivery of Services by **TRANSYSTEMS** in either Scope or Scheduling, or any defect or non-conformance in the delivery of Services by **TRANSYSTEMS** (or independent associates or consultants) , or in the work of any contractor or other party performing or providing work or services in connection with the project. The **CITY** shall further agree to impose a similar notification requirement on all contractors providing work or services in connection with this project. Failure by the **CITY**, or the **CITY** contractors or subcontractors to notify **TRANSYSTEMS** shall relieve **TRANSYSTEMS** of the costs of remedying the defects above the sum such remedy would have cost had prompt notification been given when such defects were first discovered.

7. TRANSYSTEMS Responsibilities.

a. **TRANSYSTEMS** shall designate a person to act as **TRANSYSTEMS** representative with respect to the Services to be rendered for the **CITY** under this Contract. Such person shall have complete authority to transmit instructions, receive information, interpret and define **TRANSYSTEMS** policies and decisions with respect to the delivery of the Basic, Amended or Changed Services for this Contract.

b. When the **CITY** or the **CITY** contractors or subcontractors has provided prompt notice to **TRANSYSTEMS** of a development that will affect the delivery of Services in either Scope or Scheduling, or any defect or non-conformance in the delivery of Services by **TRANSYSTEMS** (or independent associates or consultants), **TRANSYSTEMS** shall then, in an appropriate amount of time, take measures to minimize the consequences of such notice which shall affect their delivery of Services.

c. Services performed by **TRANSYSTEMS** under this Contract will be conducted in a manner consistent with the level of care, diligence and skill ordinarily possessed and exercised by members of the profession currently practicing under similar conditions.

d. Following the successful completion of this Contract, the **CITY** grants **TRANSYSTEMS** a non-exclusive license to use the **CITY** name and logo in **TRANSYSTEMS** marketing materials. Should **TRANSYSTEMS** wish to use the **CITY** name and logo as part of their marketing material during the life of the project, **TRANSYSTEMS** shall first obtain written consent from the **CITY**.

8. Project Documents.

a. All documents, drawings, specifications, sketches, studies, analysis, information, schedules, estimates, reports and other items prepared or furnished by the **CITY** or **CITY** contractors or subcontractors and/or **TRANSYSTEMS** (or independent associates or consultants) pursuant to this Contract are instruments of service delivered in respect to this Contract and that the **CITY** and **TRANSYSTEMS** shall retain an ownership and

property interest therein. Any reuse of documents during the life of the project, provided by either the **CITY** or **CITY** contractors or subcontractors or **TRANSYSTEMS** (or independent associates or consultants) by the **CITY** or **TRANSYSTEMS**, shall first receive written approval by the **CITY** and **TRANSYSTEMS**.

b. In the event that the **CITY** or **TRANSYSTEMS** requests any electronic documentation or deliverable under this Contract, the **CITY** and **TRANSYSTEMS** shall first execute a separate agreement. Electronic files furnished by the **CITY** or **TRANSYSTEMS** shall be subject to an acceptance period of sixty (60) days during which the receiving party agrees to perform appropriate acceptance tests. The party which has furnished the electronic file shall correct any discrepancies or errors detected and reported within the acceptance period. After the acceptance period, the electronic files shall be deemed to be correct and accepted and neither party shall have any obligation to correct errors or maintain the electronic files.

c. The **CITY** and **TRANSYSTEMS** agree not to reuse these electronic files, in whole or in part, for any purpose other than the project. The **CITY** and **TRANSYSTEMS** agree not to transfer these electronic files to others without first receiving written consent from the **CITY** or **TRANSYSTEMS**.

9. Indemnification and Insurance.

a. **TRANSYSTEMS** shall save and hold the **CITY** harmless against all suits, claims, damages and losses for injuries to persons or property arising from or caused by errors, omissions or negligent acts of **TRANSYSTEMS**, its officers, agents, servants, or employees, occurring in the performance of its services under this Contract, or arising from any defect in the materials or workmanship of any product provided or prescribed in the performance of this Contract.

b. **TRANSYSTEMS** will carry insurance coverage during the term of this contract and any extensions thereof in the amounts and manner provided as follows:

1. Comprehensive General Liability covering premises—operations, xcu (explosion, collapse and underground) hazards when applicable, Product/Completed operations, Broad Form Property Damage, and Contractual Liability with minimum limits as follows:

| | |
|---|---|
| Bodily Injury Liability | \$500,000 each occurrence \$500,000 each aggregate |
| Property Damage Liability | \$500,000 each occurrence \$500,000 each aggregate |
| Or | |
| Bodily Injury and Property Damage Liability (Combined Single Limit) | \$500,000 each occurrence \$500,000 each aggregate |

2. Automobile Liability - Comprehensive Form including all owned, hired and non-owned vehicles with minimum limits for:

| | |
|---------------------------|-------------------------|
| Bodily Injury Liability | \$500,000 each accident |
| Property Damage Liability | \$500,000 each accident |

Or

Bodily Injury and Property Damage
Liability (Combined Single Limit)

\$500,000 each accident

3. Workers' Compensation/Employers Liability for minimum limits of:
Employers Liability \$100,000 each accident

The Insurance Certificate must contain the following:

a. Statement that the Contractual Liability includes the Liability of the **CITY** assumed by the **TRANSYSTEMS** in the contract documents.

b. Cancellation – should any of the above policies be canceled before the expiration date thereof the issuing company will mail ten (10) days written notice to certificate holder.

10. Independent TRANSYSTEMS. The relationship of **TRANSYSTEMS** to the **CITY** will be that of an independent contractor. No employee or agent of **TRANSYSTEMS** shall be considered an employee of the **CITY**.

11. Compliance with Laws. **TRANSYSTEMS** shall comply with all laws, statutes and ordinances which may pertain to the provision of services under this Contract.

12. No Assignment. The services to be provided by the **TRANSYSTEMS** under this Contract are personal and cannot be transferred, assigned, converted, sublet or otherwise disposed of, without the specific written consent of the **CITY**.

13. Non-Discrimination. **TRANSYSTEMS** shall comply with all applicable requirements of the City of Wichita Revised Non-Discrimination and Equal Employment /Affirmative Action Program Requirements Statement for Contracts or Agreements attached hereto as Exhibit B.

14. Third Party Rights. It is specifically agreed between the **CITY** and **TRANSYSTEMS** that it is not intended by any of the provisions of any part of this Contract to create the public or any member thereof, as a third-party beneficiary hereunder, or to authorize anyone not a party to this Contract to maintain a suit for damages pursuant to the terms or provisions of this Contract.

15. No Arbitration. **TRANSYSTEMS** and the **CITY** shall not be obligated to resolve any claim or dispute related to the Contract by arbitration. Any reference to arbitration in bid or proposal documents is deemed void.

16. Change of Conditions. **TRANSYSTEMS** agrees to notify the **CITY** immediately of any change in conditions (i.e. legal, financial or technical capacity), or any other event that may significantly affect **TRANSYSTEMS** ability to perform this project in accordance with the terms of this Contract.

17. Governing Law. This contract shall be interpreted according to the laws of the State of Kansas, USA. Venue for any dispute shall be the most appropriate court of competent jurisdiction sitting in Wichita, Kansas.

18. Representative's Authority to Contract. By signing this contract, the representative of **TRANSYSTEMS** represents the he or she is duly authorized by **TRANSYSTEMS** to execute this contract, and that **TRANSYSTEMS** has agreed to be bound by all its provisions.

IN WITNESS WHEREOF, the parties have set their hands the day and year first above written.

The City of Wichita:

Carl Brewer, Mayor

Approved as to Form:

ATTEST:

Gary E. Rebenstorf
Director of Law

Karen Sublett
City Clerk

Date

Date

TranSystems:

Carol Schweiger
Principal-in-Charge

EXHIBIT A

Basic Services for Transit Services (TS) ITS Project

Phase I – Develop ITS Implementation Plan:

Task 1 – Develop an implementation plan:

- a. Develop a phasing strategy for the plan indicating current requirements, future activities, system integration and funding;
- b. Develop an estimate of impact on TS staff;
- c. Develop an engineering budgetary estimate for procurement:
 - i. Identify each element;
 - ii. Identify test costs;
 - iii. Identify training costs;
 - iv. Identify maintenance costs;
 - v. Identify personal costs.
- d. Compare project estimates against overall project budget;
- e. Develop an overall schedule for the plan indicating major procurements and milestones;
- f. Document the above activities and recommendations in a report to be presented to the Project Team;

Task 2 - Assist TS in preparation of a Powerpoint (PPT) presentation for the Implementation Plan;

- a. If required by TS – present the PPT to the IT/IS Advisory Board;
- b. If necessary – assist TS to revise the PPT;
- c. If required by TS – present the PPT to the City Council;
- d. If required by TS – present the PPT to WAMPO.

Phase II – Develop Technical Specifications for the RFP(s):

Task 1 – Develop technical specifications for each of the identified applications and present to Project Team for review and draft of final document;

Task 2 – Develop evaluation criteria for each application specifications and present to Project Team;

Task 3 – Develop a payment schedule indicating milestones and associated payments for each application;

Task 4 – Review TS procurement documents and revise for the ITS project;

- Task 5** – Assist TS in negotiating with the chosen communication provider;
- Task 6** – Develop a list of qualified suppliers;
- Task 7** – Develop a Systems Engineering Analysis for each application and present to Project Team.

Phase III – Support Evaluation and Selection of Proposals and Contract Award to Vendors:

- Task 1** – Facilitate pre-proposal conference for each application;
- Task 2** – Review pre-proposal questions and prepare addendum response and present to Project Team;
- Task 3** – Review and evaluate proposals:
- a. Develop evaluation worksheets;
 - b. Develop technical review of proposals;
 - c. Assess supplier's capability of performance;
 - d. Review proposal costs;
 - e. Prepare a set of questions for proposer interview;
 - f. Prepare a technical report on each proposer;
 - g. Prepare a summary report of technical and cost aspects of proposals to indicate contract award;
 - h. Assist TS with preparation of Green Sheet regarding presentation of contract award to the City Council;
 - i. Assist TS with preparing a PPT for the City Council presentation.

Phase IV – Implementation of Application and Project Management :

- Task 1** – Review contractor's design and documentation:
- a. Review and comment on contractor project schedule including updates to Project Team;
 - b. Review and comment on contractor implementation and go live plans to Project Team;
 - c. Review and comment on contractor adherence to specification to Project Team:
 - i. Discuss software design;
 - ii. Discuss hardware design;
 - iii. System architecture;
 - iv. User interface.
- Task 2** – Participate in all factory acceptance and field testing:
- Task 3** - Provide report indicating contractor performance, project status, schedule adherence, action items, transmittals, problems and corrective actions:
- a. Coordinate all review meetings;
 - b. Maintain action list of tasks, issues from review meetings, transmittals and conference calls;
 - c. Assist on all conference calls with contractors;
 - d. Assist TS in responding to action items;
 - e. Track all transmittals with contractor;
 - f. Assist TS in planning for installation of equipment;
- Task 4** - Assist TS in implementation and activation of each application:
- a. Oversee installation of equipment;

- b. Assist TS in installation of client station and server software;
- c. Assist TS in activating each application;
- d. Develop initial acceptance plan for each application;
- Task 5** – Assist TS in implementation and activation of entire ITS project:
 - a. Assist TS in verifying successful integration of applications;
 - b. Develop final acceptance plan of each application;
 - c. Develop final acceptance plan of entire project system;
- Task 6** - Develop closeout report indicating contractor, schedule, technical and financial performance status and present to Project Team.

EXHIBIT B

REVISED NON-DISCRIMINATION AND EQUAL EMPLOYMENT OPPORTUNITY/AFFIRMATIVE ACTION PROGRAM REQUIREMENTS STATEMENT FOR CONTRACTS OR AGREEMENTS

TranSystems Corporation as the Contractor.

During the term of this contract, the CONTRACTOR or subCONTRACTOR, CONTRACTOR or supplier of the City, by whatever term identified herein, shall comply with the following Non-Discrimination--Equal Employment Opportunity/Affirmative Action Program Requirements:

- A. During the performance of this contract, the CONTRACTOR, subCONTRACTOR, CONTRACTOR or supplier of the City, or any of its agencies, shall comply with all the provisions of the Civil Rights Act of 1964, as amended: The Equal Employment Opportunity Act of 1972; Presidential Executive Orders 11246, 11375, 11131; Part 60 of Title 41 of the Code of Federal Regulations; the Age Discrimination in Employment Act of 1967; the Americans with Disabilities Act of 1990 and laws, regulations or amendments as may be promulgated thereunder.
- B. Requirements of the State of Kansas:
 - 1. The CONTRACTOR shall observe the provisions of the Kansas Act against Discrimination (Kansas Statutes Annotated 44-1001, et seq.) and shall not discriminate against any person in the performance of work under the present contract because of race, religion, color, sex, disability, and age except where age is a bona fide occupational qualification, national origin or ancestry;
 - 2. In all solicitations or advertisements for employees, the CONTRACTOR shall include the phrase, "Equal Opportunity Employer", or a similar phrase to be approved by the "Kansas Human Rights Commission";
 - 3. If the CONTRACTOR fails to comply with the manner in which the

CONTRACTOR reports to the "Kansas Human Rights Commission" in accordance with the provisions of K.S.A. 1976 Supp. 44-1031, as amended, the CONTRACTOR shall be deemed to have breached this contract and it may be canceled, terminated or suspended in whole or in part by the contracting agency;

4. If the CONTRACTOR is found guilty of a violation of the Kansas Act against Discrimination under a decision or order of the "Kansas Human Rights Commission" which has become final, the CONTRACTOR shall be deemed to have breached the present contract, and it may be canceled, terminated or suspended in whole or in part by the contracting agency;

5. The CONTRACTOR shall include the provisions of Paragraphs 1 through 4 inclusive, of this Subsection B, in every subcontract or purchase so that such provisions will be binding upon such subCONTRACTOR or CONTRACTOR.
- C. Requirements of the City of Wichita, Kansas, relating to Non-Discrimination -- Equal Employment Opportunity/Affirmative Action Program Requirements:
1. The CONTRACTOR, supplier, CONTRACTOR or subCONTRACTOR shall practice Non-Discrimination -- Equal Employment Opportunity in all employment relations, including but not limited to employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. The CONTRACTOR, supplier, CONTRACTOR or subCONTRACTOR shall submit an Equal Employment Opportunity or Affirmative Action Program, when required, to the Department of Finance of the City of Wichita, Kansas, in accordance with the guidelines established for review and evaluation;
 2. The CONTRACTOR, supplier, CONTRACTOR or subCONTRACTOR will, in all solicitations or advertisements for employees placed by or on behalf of the CONTRACTOR, supplier, CONTRACTOR or subCONTRACTOR, state that all qualified applicants will receive consideration for employment without regard to race, religion, color, sex, "disability, and age except where age is a bona fide occupational qualification", national origin or ancestry. In all solicitations or advertisements for employees the CONTRACTOR, supplier, CONTRACTOR or subCONTRACTOR shall include the phrase, "Equal Opportunity Employer", or a similar phrase;
 3. The CONTRACTOR, supplier, CONTRACTOR or subCONTRACTOR will furnish all information and reports required by the Department of Finance of said City for the purpose of investigation to ascertain compliance with Non-Discrimination -- Equal Employment Opportunity Requirements. If the CONTRACTOR, supplier, CONTRACTOR, or subCONTRACTOR fails to comply with the manner in which he/she or it reports to the City in accordance with the provisions hereof, the CONTRACTOR, supplier, CONTRACTOR or subCONTRACTOR shall be deemed to have breached the present contract, purchase order or agreement and it may be canceled, terminated or suspended in whole or in part by the City or its agency; and further Civil Rights complaints, or investigations may be referred to the State;
 4. The CONTRACTOR, supplier, CONTRACTOR or subCONTRACTOR shall include the provisions of Subsections 1 through 3 inclusive, of this present section in every subcontract, subpurchase order or subagreement so that such provisions will be binding upon each subCONTRACTOR, subCONTRACTOR or subsupplier.

5. If the CONTRACTOR fails to comply with the manner in which the CONTRACTOR reports to the Department of Finance as stated above, the CONTRACTOR shall be deemed to have breached this contract and it may be canceled, terminated or suspended in whole or in part by the contracting agency;

D. Exempted from these requirements are:

1. Those CONTRACTORs, subCONTRACTORs, CONTRACTORs or suppliers who have less than four (4) employees, whose contracts, purchase orders or agreements cumulatively total less than five thousand dollars (\$5,000) during the fiscal year of said City are exempt from any further Equal Employment Opportunity or Affirmative Action Program submittal.
2. Those CONTRACTORs, suppliers, CONTRACTORs or subCONTRACTORs who have already complied with the provisions set forth in this section by reason of holding a contract with the Federal government or contract involving Federal funds; provided that such CONTRACTOR, subCONTRACTOR, CONTRACTOR or supplier provides written notification of a compliance review and determination of an acceptable compliance posture within a preceding forty-five (45) day period from the Federal agency involved.

**City of Wichita
City Council Meeting
July 22, 2008**

TO: Mayor and City Council

SUBJECT: City of Wichita Intelligent Transportation System Project

INITIATED BY: Transit Services

AGENDA: Consent

Recommendation: Approve the contract to provide project management services for the design, installation and implementation of Transit Services Intelligent Transportation System (ITS) project with TranSystems.

Background: Transit Services current infrastructure has reached a point where available and affordable improvements are needed to support the current and future systems abilities. To remedy this situation Transit Services has been conducting research to identify ways to improve operational efficiencies and customer services, while maintaining existing staffing levels.

Transit Services has identified the utilization of ITS technologies to fulfill the need for an update to its current system. The deployment of ITS has permitted other public transit providers to become more efficient in the delivery of customer services, ultimately resulting in even greater mobility and access. Not only has ITS technology shown a benefit to the transit ridership but have resulted in advancing positive improvements on the overall regional transportation network as a whole. These improvements are also needed to support local Americans with Disabilities Act (ADA) transit related requirements as well as planned transit services supporting both the downtown arena and regional growth initiatives.

At a minimum, the components to the ITS project will be for the issuance of a consultant contract responsible for the design, implementation, and deployment of the following project applications;

- Automatic Vehicle Location (AVL) system with Global Positioning System (GPS);
- Automated Stop Announcement system (ADA mandated);
- External Vehicle Identification system (ADA mandated);
- Computer Aided Dispatch (CAD) system with Mobile Data Terminals (MDT);
- Automated Passenger Count (APC) system;
- Customer Service system;
- Vehicle Diagnostic system.

On May 6, 2008, the request was brought before the City Council, under the New Business agenda, to approve the release of an RFP for a consultant contract, Approve the expenditure of City funds for required match on the Federal Grant money, Approve the expenditure of the FFY2003 FHWA ITS Demonstration Fund and Approve the signing of the associated Supplemental Agreement. The City Council voted to approve the recommendations, 7 to 0.

On May 21, 2008, Transit Services released an RFP to find a qualified and financially stable consultant firm to design and manage the deployment of the entire ITS project. Due to the high technological nature

of the project, a special Selection Committee was formed to review the submitted proposals. After closely scrutinizing the proposals and ranking them in a tiered review process, the Selection Committee unanimously chose TranSystems, which is headquartered in Kansas City, MO.

TranSystems was formed in 1995 and has grown into a leading national firm serving the transportation industry. The Transit division, specifically, is well versed in the adoption of ITS technologies and has accredited themselves with numerous successful projects in which they assisted agencies in developing project goals, assigning budgetary measures, developing specifications, evaluating proposals, procuring equipment, implementing and testing systems and evaluating deployments.

Financial Consideration: The total amount of the funding available for the project is \$1,502,916. This is assembled through a collection of FTA and FHWA funding. The amount determined for project management services is \$75,000, which leaves a balance for system implementation of \$1,395,000. The only local money involved in the project is \$81,775 for match purposes.

All Federal funding has been approved for expenditure on the ITS project. Due to the extended period of availability of the FHWA funding, if it is not expended on the current project, the FHWA General Accounting Office will rescind the fund and the City of Wichita will lose the opportunity to avail it.

Goal Impact: This project addresses the Internal Perspective goal by influencing the following indicators: Improve Technology Efficiencies and Increase Productivity.

Legal Considerations: The associated Supplemental Agreement has been reviewed and approved by all signing parties.

Recommendations: Approve the contract to provide project management services for the design, installation and implementation of Transit Services Intelligent Transportation System (ITS) project with TranSystems.